

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF JULY, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

WRIT PETITION No.10023 OF 2022 (GM-RES)

C/W

WRIT PETITION No.10029 OF 2022 (GM-RES)

IN WRIT PETITION No.10023 OF 2022

BETWEEN:

IMRAN SIDDIQUI

... PETITIONER

(BY SRI A.S.PONNANNA, SR.ADVOCATE A/W
SRI PRAVEEN KAMATH M.R., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY DAVANAGERE RURAL POLICE STATION,
DAVANAGERE
REP. BY THE SPP OFFICE,
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

2. SRI ASHOKA S.,

... RESPONDENTS

(BY SRI V.S.HEGDE, SPP – II A/W
SMT.K.P.YASHODHA, HCGP FOR R1;
R2 - SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE IMPUGNED FIR NO.05.05.2022 IN CRIME NO.0068/2022 AND COMPLAINT DTD.05.5.2022 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 384, 504, 506 READ WITH 34 OF INDIAN PENAL CODE 1860 REGISTERED BY THE R-1 HARIHARA RURAL POLICE STATION PENDING ON THE FILE OF THE PRL CIVIL JUDGE (JR. DN) AND JMFC HARIHARRA DAVANAGERE DIST A COPY OF WHICH IS HEREIN PRODUCED AT ANEXURE-A AND B.

IN WRIT PETITION No.10029 OF 2022

BETWEEN:

1. IMRAN SIDDIQUI

2. B.ASHOK KUMAR

... PETITIONERS

(BY SRI A.S.PONNANNA, SR.ADVOCATE A/W
SRI PRAVEEN KAMATH M.R., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY DAVANAGERE RURAL POLICE STATION
DAVANAGERE

REP. BY THE SPP OFFICE
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

2. SRI MUBARK

... RESPONDENTS

(BY SRI V.S.HEGDE, SPP-II A/W
SMT.K.P.YASHODHA, HCGP FOR R1;
SRI RUDRAPPA P., ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE IMPUGNED FIR DTD 01.05.2022 IN CRIME NO.0143 OF 2022 AND COMPLAINT DTD 01.05.2022 FOR THE OFFENCE PUNISHABLE US 420, 384, 34 OF INDIAN PENAL CODE, 1860 REGISTERED BY THE R1 DAVANAGERE RURAL POLICE STATION, PENDING ON THE FILE OF THE PRL. CIVIL JUDGE

(SR.DN) AND CJM, DAVANAGERE DIST, DAVANAGERE, A COPY OF WHICH IS HEREIN PRODUCED AS ANNEXURE-A AND B AND ETC.,

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 20.07.2022, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The sole petitioner in W.P.No.11023 of 2022 and 1st petitioner in W.P.No.11029 of 2022 would be hereinafter referred to as the petitioner and petitioner No.2 in W.P.No.11029 of 2022 would be referred as such in this order.

2. The petitioner in W.P.No.10023 of 2022 calls in question registration of crime in Crime No.68 of 2022 registered for offences punishable under Sections 384, 504, 506 and 34 of the IPC and the petitioners in W.P.No.10029 of 2022 call in question FIR in Crime No.143 of 2022 registered for offences punishable under Sections 384, 420 and 34 of the IPC.

3. Heard Sri A.S.Ponnanna, learned senior counsel appearing for the petitioners in both the petitions, Sri V.S.Hegde, Special Public Prosecutor-II for respondent No.1 and Sri P.Rudrappa, learned counsel for respondent No.2/complainant in Writ Petition No.10029 of 2022. The complainant/respondent No.2 in W.P.No.10023 of 2022 though served is unrepresented.

4. Brief facts that lead to the filing of the present petitions, as borne out from the pleadings, are as follows:-

A complaint is registered by the 2nd respondent against the petitioners on 01-05-2022 alleging that the petitioners in Writ Petition No.10029 of 2022 have threatened the complainant and have extracted money and are demanding Rs.2/- lakhs again. Based upon this, the petitioners were arrested and taken to custody. After the petitioners obtained bail another complaint is registered on 05-05-2022 with the same allegation by a different complainant. In the said complaint the allegation was only against the petitioner. This

forms part of Writ Petition No.10023 of 2022. Registration of these FIRs is called in question by the petitioners in these petitions.

5. The learned senior counsel representing the petitioners would vehemently contend that a bare perusal at the complaints would clearly indicate that they are planted ones against the petitioners as the allegations in the complaints are that the petitioners had threatened and sought to extract money about 8 months back before registration of complaints. If it were to be extraction of money, it ought to have been reported immediately and delay in filing the complaints is fatal to the investigation even.

6. On the other hand, the Special Public Prosecutor-II representing the State would vehemently refute the submissions to contend that once a cognizable offence is reported with whatever delay, it would be a matter of investigation and the petitioners cannot call registration of

FIRs in question on their very registration, as investigation has not progressed any further. The police may investigate and even file a 'B' report if there is no truth in the allegation and, therefore, would seek dismissal of the petitions. He would submit that his submissions be taken as objections to the petitions themselves.

7. The learned counsel Sri P.Rudrappa representing the 2nd respondent in Writ Petition No.10029 of 2022 would again refute the submissions of the learned senior counsel to contend that there is explanation in the complaints for delay of 9 months in registering the complaints, which was due to fear generated by the petitioners. He would also submit that the complainant is not available for filing of statement of objections and has only given instructions. Therefore, his arguments be taken as objections to the petition.

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

9. First of the complaint that comes about against the petitioners is impugned in Writ Petition No.10029 of 2022 which becomes crime in Crime No.143 of 2022 for offences punishable under Sections 384, 420 and 34 of the IPC. Since the entire issue springs from the complaint, the same is quoted hereunder for the purpose of quick reference:

“ದಿನಾಂಕ:01-05-2022

*ಗೆ
ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ದಾವಣಗೆರೆ ಗ್ರಾಮಾಂತರ ಪೊಲೀಸ್ ಠಾಣೆ
ದಾವಣಗೆರೆ.*

*ಇಂದ
ಮುಬಾರಕ್ ತಂದೆ ಅಬ್ದುಲ್‌ವಾಜಿದ್
30 ವರ್ಷ, ಬ್ಯಾಪಾರ ವಿನಾಯಕ ನಗರ
1 ನೇ ಕ್ರಾಸ್, ದಾವಣಗೆರೆ 9742157999.*

ಸ್ವಾಮಿ.

ವಿಷಯ: ಕೊಲೆ ಬೆದರಿಕೆ ಹಾಕಿ ನನ್ನಿಂದ 4 ಲಕ್ಷ ಹಣ ಕಿತ್ತುಕೊಂಡು ಈಗ ಮತ್ತೆ 2 ಲಕ್ಷ ಹಣ ನೀಡುವಂತೆ ಬೆದರಿಕೆ ಒಡ್ಡುತ್ತಿರುವ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವ ಬಗ್ಗೆ ದೂರು.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮುಬಾರಕ್ ತಂದೆ ಅಬ್ದುಲ್ ವಾಜಿದ್, 30 ವರ್ಷ, ವ್ಯಾಪಾರ, ವಿನಾಯಕ ನಗರ, 1ನೇ ಕ್ರಾಸ್, ದಾವಣಗೆರೆ ವಾಸಿಯಾದ ನಾನು ತಮ್ಮಲ್ಲಿ ಕೋರುವುದೇನೆಂದರೆ ನಾನು ದಾವಣಗೆರೆಯಲ್ಲಿ ಮರಳಿನ ವ್ಯಾಪಾರವನ್ನು ಮಾಡಿಕೊಂಡು ಜೀವನ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಾನು ಹರಿಹರ ಮತ್ತು ಹಾವೇರಿ ಜಿಲ್ಲೆಯಲ್ಲಿ ಮರಳಿನ ಪಾಸ್ (ಪರವಾನಗಿ) ಪಡೆದುಕೊಂಡು ಮರಳಿನ ವ್ಯಾಪಾರವನ್ನು ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಾನು ಈಗಾಗಲೇ ಸುಮಾರು 5 ವರ್ಷಗಳಿಂದ ಮರಳಿನ ವ್ಯಾಪಾರ ಮಾಡುತ್ತಾ ಬಂದಿರುತ್ತೇನೆ ಈಗ ಸುಮಾರು 7-8 ತಿಂಗಳ ಹಿಂದೆ ನಾನು ಹಳೆ ಬಾತಿ ಬೈಪಾಸ್ ಸಮೀಪ ಮರಳಿನ ಲಾರಿಯನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋಗುತ್ತಿರುವಾಗ ಯಾರು ಇಬ್ಬರು ವ್ಯಕ್ತಿಗಳು ಬಂದು ಲಾರಿಯನ್ನು ಅಡ್ಡ ಹಾಕಿ ನಾನು ಜುಲೈಕರ್ ಎಂಬುವವನು ನಮ್ಮ ಬಾಸ್ ಕಾರಿನಲ್ಲಿದ್ದಾರೆ ಅವರ ಬಳಿ ಬಂದು ಮಾತನಾಡು ಎಂದು ಹೇಳಿದನು ಆಗ ನಾನು ಅವನ ಬಳಿ ನನ್ನದೇನು ಮಾತು ಎಂದು ಹೇಳಿದ್ದಕ್ಕೆ ಜುಲೈಕರ್ ಎಂಬುವವನು ಅವರನ್ನು ಯಾರನ್ನು ತಿಳಿದಿದ್ದೀಯಾ ತಿವರಿಸಿ ಮತ್ತು ಮೈಸೂರಿನ ಡಾನ್ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ಎಂದು ಹೇಳಿದನು ನಾನು ಹೆದರಿ ಲಾರಿಯಿಂದ ಕೆಳಗಡೆ ಬಂದು ಅವರು ಕುಳಿತಿದ್ದ ಕಾರಿನ ಬಳಿ ಹೋಗಿ ಅವರನ್ನು ಮಾತನಾಡಿಸಿದನು ಆಗ ಕಾರಿನ ಕೆಳಗಡೆ ಇಳಿದು ಬಂದ ವ್ಯಕ್ತಿ ನಾನು ಯಾರು ಗೊತ್ತಾ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ನನಗೆ ಎಲ್ಲಾ ಅಧಿಕಾರಿಗಳು ಗೊತ್ತಿದ್ದಾರೆ ನೀನು ನನ್ನ ಅನುಮತಿ ಇಲ್ಲದೇ ಮರಳನ್ನು ಹೇಗೆ ಸಾಗಾಣಿಕೆ ಮಾಡುತ್ತಿರುವೆ ಎಂದು ಹೇಳಿ ನನಗೆ 4 ಲಕ್ಷ ಹಣವನ್ನು ನೀಡಿದರೆ ಮಾತ್ರ ನಾನು ನಿನ್ನಿಗೆ ಮರಳನ್ನು ಸಾಗಾಣಿಕೆ ಮಾಡಲು ಬಿಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿ ನನಗೆ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆ. ನಾನು ಅವನಿಗೆ ಹೆದರಿ ಕೊಂಡು ಅಣ್ಣ ನಾನು ಸಂಜೆ ಬಂದು ನಿಮ್ಮನ್ನು ಹಳೆ ಬಾತಿ ಬೈಪಾಸ್ ಬಿಡ್ಡ್ ಮೇಲೆ ಬಂದು ಭೇಟಿ ಆಗುತ್ತೇನೆ ಎಂದು ಹೇಳಿ ಅವನ ಜೊತೆಗೆ ಇದ್ದ ಜುಲೈಕರ್ ನಂಬರ್ ಪಡೆದು ನಾನು ಅಲ್ಲಿಂದ ಲಾರಿಯನ್ನು ತೆಗೆದುಕೊಂಡು ದಾವಣಗೆರೆಗೆ ಬಂದು ಆನ್‌ಲೋಡ್ ಮಾಡಿರುತ್ತೇನೆ.

ಅದೇ ದಿನ ಸಂಜೆ ನಾನು ಜುಲೈಕರ್ ನಂಬರ್‌ಗೆ ಕರೆ ಮಾಡಿ ಸರ್ ನಾನು ಎಲ್ಲಿಗೆ ಬರಲಿ ಎಂದು ಕೇಳಿದಾಗ ಹಳೆ ಬಾತಿ ಬೈಪಾಸ್ ಬಿಡ್ಡ್ ಹತ್ತಿರ ಜಾ ಎಂದು ಹೇಳಿದನು ನಾನು ಬೈಕ್‌ನಲ್ಲಿ 2 ಲಕ್ಷ ಹಣವನ್ನು ಇಟ್ಟುಕೊಂಡು ಅವರು ಇದ್ದ ಸ್ಥಳಕ್ಕೆ ಹೋದೆನು ಆಗ ಜುಲೈಕರ್ ಮತ್ತು ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ಎಂಬುವವರು ಇಬ್ಬರು ತಾವು ತಂದಿದ್ದ ಬೆಂಚ್ ಕಾರಿನಿಂದ ಇಳಿದು ಕೆಳಗಡೆಗೆ ನಿಂತಿದ್ದರು ನಾನು ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ಬಳಿ ಬಂದು ನಾನು ಸಣ್ಣದಾಗಿ ಮರಳಿನ ವ್ಯಾಪಾರ ಮಾಡುತ್ತಿರುವವನು ನನ್ನ ಮೇಲೆ ಯಾಕೆ ಈ ರೀತಿ ದೌರ್ಜನ್ಯ ಮಾಡುತ್ತೀರೋ ಎಂದು ಕೇಳಿದ್ದಕ್ಕೆ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ನನಗೆ ಬಾಯಿಗೆ ಬಂದಂತೆ ಅವಾಚ್ಚ ಶಬ್ದಗಳಿಂದ ಬೈದಾಡಿ ನೀನು ಅದು ಹೇಗೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲದೇ ಬುಸಿನೆಸ್ ಮಾಡುತ್ತೀಯಾ ಮಾಡು ನಿನ್ನನ್ನು ಸುಮ್ಮನೆ ಬಿಡುವುದಿಲ್ಲ ನಮ್ಮ ಹುಡುಗರಿಗೆ ಹೇಳಿ ನಿನ್ನ ಕೈಕಾಲು ಮುರಿಸುತ್ತೇನೆ ಎಂದು ಹೇಳಿದನು ಆಗ ನಾನು ಅವನಿಗೆ ಹೆದರಿ ಬಯ್ಯಾ ಈಗ ನನ್ನ ಬಳಿ ಕೇವಲ 2 ಲಕ್ಷ ಹಣವಿದೆ ಎಂದಿದ್ದಕ್ಕೆ ಅದನ್ನು ನನ್ನ ಕೈಯಿಂದ ಕಿತ್ತುಕೊಂಡು ಉಳಿದ 2 ಲಕ್ಷ ಹಣವನ್ನು ನಾಳೆ ಬೆಳಿಗ್ಗೆ ತಂದುಕೊಂಡು ಇಲ್ಲವಾದಲ್ಲಿ ನಿನ್ನ ಲಾರಿ ಬೆಂಕಿ ಹಚ್ಚುತ್ತೇನೆ ಎಂದು ಹೇಳಿ ಹೋದನು ನಾನು ಮಾರನೇ ದಿನ ಬೆಳಿಗ್ಗೆ ಜುಲೈಕರ್ ಗೆ ಫೋನ್ ಮಾಡಿಕೊಂಡು ಅದೇ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿ ಮತ್ತೆ 2 ಲಕ್ಷ ಹಣವನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋಗಿ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್‌ಗೆ ನೀಡಿರುತ್ತೇನೆ. ಆಗ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ನೀನು ನನಗೆ ಪ್ರತಿ ತಿಂಗಳು 2 ಲಕ್ಷ ಹಣವನ್ನು ನೀಡು ಇಲ್ಲವಾದಲ್ಲಿ ನಿನ್ನನ್ನು ಜೀವ ಸಹಿತ ಬಿಡುವುದಿಲ್ಲ ಎಂದು ಹೇಳಿ ಬೆದರಿಕೆ ಹಾಕಿ ಹೋಗಿರುತ್ತಾನೆ. ನನಗೆ ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿ ನನ್ನಿಂದ 4 ಲಕ್ಷ ಹಣವನ್ನು ಕಿತ್ತಿಕೊಂಡು ಇನ್ನೂ ಲಕ್ಷ-ಲಕ್ಷ ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟಿರುವ ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್ ಮತ್ತು ಜುಲೈಕರ್ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಂಡು ನನಗೆ ನ್ಯಾಯ ಕೊಡಿಸಬೇಕಾಗಿ ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ. ನಾನು ಇಮ್ರಾನ್ ಸಿದ್ದೀಕ್‌ಗೆ ಎದರಿಕೊಂಡು ತಡವಾಗಿ ಬಂದು ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ.”

(Emphasis added)

The allegation in the complaint is that the complainant one Mubarak who claims to be the owner/driver of a lorry and is in the business of transportation of sand alleges that about 7 to 8 months before 01-05-2022 the petitioners had stopped his vehicle and had demanded money for further movement of the vehicle. The petitioners are described as underworld dons. Vague dates are given in this regard. On the basis of the said complaint, the aforesaid crime is registered for the offences noted *supra*. Based upon this, the police conduct a search in the house of the petitioner and drew up a panchanama. No amount is recovered. After conduct of panchanama on 02-05-2022 and arrest of the petitioner, a second complaint is registered by a different complainant which is impugned in the companion writ petition. The 2nd complaint is verbatim similar to the first complaint *supra*. The 2nd complaint is registered on 05-05-2022 and reads as follows:

“*ದಿನಾಂಕ:05/05/2022*”

ಇವರಿಗೆ

ಮೋಲೀಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಗ್ರಾಮಾಂತರ ಠಾಣೆ
ಹರಿಹರ.

ಇಂದ,

ಅಶೋಕ .ಎಸ್ ತಂದೆ ಶೇಖರಪ್ಪ, 40 ವರ್ಷ,
ಮರಳು ಸಬ್ ಕಂಟ್ರಾಕ್ಟರ್ ಕೆಲಸ, ವಿನೋಬನಗರ
4ನೇ ಮೇನ್, 6ನೇ ಕ್ರಾಸ್, ದಾವಣಗೆರೆ.
ಮೊ.ನಂ: 9980199906.

ಸ್ವಾಮಿ,

ವಿಷಯ: ಬೆದರಿಕೆ ಹಾಕಿ ನನ್ನಿಂದ 8 ಲಕ್ಷ ಹಣ ಪಡೆದು ಇನ್ನೂ ಹಣ ನೀಡುವಂತೆ ಬೆದರಿಕೆ
ಒಡ್ಡುತ್ತಿರುವ ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಮತ್ತು ಸಹಚರರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ
ತೆಗೆದುಕೊಳ್ಳುವ ಬಗ್ಗೆ ದೂರು.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಶೋಕ .ಎಸ್ ತಂದೆ ಶೇಖರಪ್ಪ , 40 ವರ್ಷ,
ಮರಳು ಸಬ್ ಕಂಟ್ರಾಕ್ಟರ್ ಕೆಲಸ, ವಿನೋಬನಗರ, 4ನೇ ಮೇನ್, 6ನೇ ಕ್ರಾಸ್, ದಾವಣಗೆರೆ ಆದ ನಾನು
ಕೋರುವುದೇನೆಂದರೆ ನಾನು ದಾವಣಗೆರೆಯಲ್ಲಿ ಮರಳಿನ ವ್ಯಾಪಾರ ಮಾಡಿಕೊಂಡು ಜೀವನ
ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಾನು ಹಾವೇರಿ ಜಿಲ್ಲೆಯ ಬರಣಿಯಲ್ಲಿ ಇಮಾಮ್ ಸಾಬ್ ಬಾಗಲಕೋಟೆ
ರವರು ಲೀಜ್ ಪಾಯಿಂಟ್ ಪಡೆದಿದ್ದು, ನಾನು ಲೀಜ್ ಪಾಯಿಂಟ್ ನಲ್ಲಿ ಮ್ಯಾನೇಜ್ ಮೆಂಟ್ ಕೆಲಸ
ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಾನು ಈಗಾಗಲೇ ಸುಮಾರು 04 ವರ್ಷಗಳಿಂದ ಮರಳಿನ ವ್ಯಾಪಾರವನ್ನು
ಮಾಡಿಕೊಂಡು ಬಂದಿರುತ್ತೇನೆ. ದಿನಾಂಕ:13/09/2021 ರಂದು ಶಿವಮೊಗ್ಗ ಹರಿಹರ ರಸ್ತೆಯಲ್ಲಿರುವ
ಶಾಂತಿಸಾಗರ ಡಾಬಾದಲ್ಲಿ ಊಟಕ್ಕೆ ಕುಳಿತಿದ್ದಾಗ ಯಾರೋ ಒಬ್ಬ ವ್ಯಕ್ತಿ ಜೇಪ್ ಕಾಂಪಾಸ್ ಕಾರಿನಲ್ಲಿ
ಬಂದು ನನ್ನನ್ನು ಕರೆದು ನಾನು ಜುಲ್ಹಿಕರ್, ನಮ್ಮ ಬಾಸ್ ಕಾರಿನಲ್ಲಿದ್ದಾರೆ ಅವರ ಬಳಿ ಬಂದು
ಮಾತನಾಡು ಎಂದು ಹೇಳಿದನು. ಆಗ ನಾನು ಅವನ ಬಳಿ ನನ್ನದೇನು ಮಾತು ಅಂತಾ ಹೇಳಿದ್ದಕ್ಕೆ
ಜುಲ್ಹಿಕರ್ ಎಂಬುವವನು ಅವರನ್ನು ಯಾರೆಂದು ತಿಳಿದಿದ್ದೀಯಾ ಶಿವಮೊಗ್ಗ ಮತ್ತು ಮೈಸೂರಿನ ಡಾನ್
ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಎಂದು ಹೇಳಿದನು. ನಾನು ಹೆದರಿ ಅವರು ಕುಳಿತಿದ್ದ ಜೇಪ್ ಕಾಂಪಾಸ್ ಕಾರ್ ನ
ಬಳಿ ಹೋಗಿ ಮಾತನಾಡಿಸಿದೆನು. ಆಗ ಕಾರಿನಿಂದ ಇಳಿದು ಬಂದ ವ್ಯಕ್ತಿ ನಾನು ಯಾರು ಗೊತ್ತಾ,
ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್, ನನಗೆ ಎಲ್ಲಾ ಅಧಿಕಾರಿಗಳು ಗೊತ್ತಿದ್ದಾರೆ, ನೀನು ನನ್ನ ಅನುಮತಿ ಇಲ್ಲದೇ ಮರಳಿನ
ಲೀಜ್ ನಡೆಸುತ್ತಿರುವೆ ಎಂದು ಹೇಳಿ ನನಗೆ 10 ಲಕ್ಷ ಹಣವನ್ನು ನೀಡಿದರೆ ಮಾತ್ರ ನಾನು ನಿನಗೆ
ಮರಳನ್ನು ಸಾಗಾಣಿಕೆ ಮಾಡಲು ಬಿಡುತ್ತೇನೆಂದು ಹೇಳಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆ. ನಾನು ಅವನಿಗೆ
ಹೆದರಿಕೊಂಡು ಅಣ್ಣಾ ನಾನು ಸಂಜೆ ಬಂದು ನಿಮ್ಮನ್ನು ಇದೇ ಸ್ಥಳಕ್ಕೆ ಬಂದು ಭೇಟಿಯಾಗುತ್ತೇನೆಂದು ಹೇಳಿ
ನಾನು ಅಲ್ಲಿಂದ ಕಾರ್ ತೆಗೆದುಕೊಂಡು ಹೋಗಿರುತ್ತೇನೆ. ಅದೇ ದಿನ ಸಂಜೆ ನಾನು ಹರಿಹರ ಶಿವಮೊಗ್ಗ
ರಸ್ತೆಯ ಶಾಂತಿಸಾಗರ ಡಾಬಾದ ಹತ್ತಿರ ಬೈಕ್‌ನಲ್ಲಿ 04 ಲಕ್ಷ ಹಣವನ್ನು ಇಟ್ಟುಕೊಂಡು ಹೋದೆನು. ಆಗ
ಜುಲ್ಹಿಕರ್ ಮತ್ತು ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಎಂಬುವವನು ತಾವು ತಂದಿದ್ದ ಕಾರ್‌ನಿಂದ ಇಳಿದು ಕೆಳಗೆ
ನಿಂತಿದ್ದರು. ನಾನು ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಬಳಿ ಭಯ್ಯಾ ನಾನು ಸಣ್ಣದಾಗಿ ಮರಳಿನ ವ್ಯಾಪಾರ
ಮಾಡುತ್ತಿರುವವನು, ನನ್ನ ಮೇಲೆ ಏಕೆ ಈ ರೀತಿ ದೌರ್ಜನ್ಯ ಮಾಡುತ್ತೀರಿ ಎಂದು ಕೇಳಿದ್ದಕ್ಕೆ ಇಮ್ರಾನ್
ಸಿದ್ದಿಕ್ ನನಗೆ ಬಾಯಿಗೆ ಬಂದಂತೆ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದಾಡಿ ನೀನು ಅದ್ದೇಗೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲವೇ
ಬುಸಿನೆಸ್ ಮಾಡುತ್ತೀಯೆ ಮಾಡು, ನಿನ್ನನ್ನು ಸುಮ್ಮನೇ ಬಿಡುವುದಿಲ್ಲ, ನಮ್ಮ ಹುಡುಗರಿಗೆ ಹೇಳಿ ನಿನ್ನ
ಕೈಕಾಲು ಮುರಿಸುತ್ತೇನೆಂದು ಹೇಳಿದನು. ಆಗ ನಾನು ಅವನಿಗೆ ಹೆದರಿ ಭಯ್ಯಾ ನನ್ನ ಬಳಿ ಕೇವಲ 04

ಲಕ್ಷ ಹಣ ತಂದಿದ್ದೇನೆ ಎಂದು ಹೇಳಿ ಅವರ ಕೈಗೆ ಕೊಟ್ಟೆನು. ಆಗ ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಉಳಿದ 06 ಲಕ್ಷ ಹಣವನ್ನು ನಾಳೆ ಬೆಳಿಗ್ಗೆ ತಂದು ಕೊಡು ಇಲ್ಲದಿದ್ದರೆ ನಿನ್ನ ಕಾರಿಗೆ ಬೆಂಕಿ ಹಚ್ಚುತ್ತೇನೆಂದು ಹೇಳಿದನು. ನಾನು ಇದಾದ ನಂತರ ಸರಿಯಾಗಿ 01 ತಿಂಗಳ ನಂತರ ಅಂದರೆ ದಿನಾಂಕ:14/10/2021 ರಂದು ಶಿವಮೊಗ್ಗ ಹರಿಹರ ರಸ್ತೆ ಶಾಂತಿಸಾಗರ ಡಾಬಾದ ಹತ್ತಿರ ಇರುವಾಗ ಜುಲೈಕ್ ಹಾಗೂ ಸಿದ್ದಿಕ್ ನನ್ನ ಕಾರಿಗೆ ಅಡ್ಡ ಬಂದು ಉಳಿದ 06 ಲಕ್ಷ ಹಣವೆಲ್ಲ ಅಂತಾ ಕೇಳಿದರು. ನಾನು ಅವರಿಗೆ ಹೆದರಿ ನನ್ನ ಕಾರನ್ನು ಅಲ್ಲಿಯೇ ಬಿಟ್ಟು ಬೇರೆ ವಾಹನದಲ್ಲಿ ಹೋಗಿ 04 ಲಕ್ಷ ಹಣವನ್ನು ಹೊಂದಿಸಿಕೊಂಡು ಬಂದು ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ರವರ ಕೈಗೆ ನೀಡಿರುತ್ತೇನೆ. ಆಗ ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ನೀನು ನನಗೆ ಉಳಿದ 02 ಲಕ್ಷ ಹಣವನ್ನು ಆದಷ್ಟು ಬೇಗ ತಂದು ಕೊಡು ಇಲ್ಲವಾದಲ್ಲಿ ನಿನ್ನನ್ನು ಜೀವಸಹಿತ ಬಿಡುವುದಿಲ್ಲ ಎಂದು ಬೆದರಿಕೆ ಹಾಕಿ ಹೋಗಿರುತ್ತಾರೆ. ನನಗೆ ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿ ನನ್ನಿಂದ 08 ಲಕ್ಷ ಹಣ ಪಡೆದು ಇನ್ನೂ ಲಕ್ಷ ಲಕ್ಷ ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟಿರುವ ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್ ಮತ್ತು ಜುಲೈಕ್ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಂಡು ನನಗೆ ನ್ಯಾಯ ಕೊಡಿಸಬೇಕಾಗಿ ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ. ನಾನು ಇಮ್ರಾನ್ ಸಿದ್ದಿಕ್‌ಗೆ ಹೆದರಿಕೊಂಡು ಈ ದಿವಸ ತಡವಾಗಿ ಬಂದು ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ.”

(Emphasis added)

The complainant in the 2nd complaint also narrates that on 13.09.2021 the petitioner had blocked the way and demanded Rs.10,00,000/-. This becomes a crime in Crime No.68 of 2022. The complainant in the said case though is served through the jurisdictional police remains unrepresented and the recovery that happens in the entire case is about 128 notes of Rs.500/- denomination and 3 notes of Rs.2,000/- denomination but not from the petitioner. This is recovered from accused No.3 in Crime No.143 of 2022. There is no recovery of any amount from the petitioner.

10. What merits consideration is the contention of the learned senior counsel that the complainants are ghost complainants as the allegation in the complaints is that extortion has taken place about 9 months before registration of the complaints. There is no explanation except saying that due to fear there is delay in registration of complaints. If extraction had taken place on 13-09-2021, complaint could not have been registered on 05-05-2022. Similar goes with the earlier complaint and if complaints are read in juxtaposition they are verbatim similar. In fact, a few paragraphs are copied and pasted between the complaints registered on 01-05-2022 and 05-05-2022. Therefore, the very registration of crime or the happening of the incident becomes doubtful, as delay in registering the complaints gives rise to embellishment to a particular complaint as is held by the Apex Court in the case of **MANOJ KUMAR SHARMA AND**

OTHERS v. STATE OF CHHATTISGARH AND ANOTHER¹ ,

wherein the Apex Court considering the delay in registration of FIR has held as follows:

"30. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story. In our opinion, such extraordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by Respondent 2 herein against the appellants, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, Respondent 2 herein has tried to rope the appellants in criminal proceedings. We are of the confirmed opinion that continuation of the criminal proceedings against the appellants pursuant to this FIR is an abuse of the process of law. Therefore, in the interest of justice, the FIR deserves to be quashed. In this context, it is apt to quote the following decision of this Court in Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468] wherein it was held as under : (SCC p. 383, para 12)

"12. The FIR in a criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of the eyewitnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large

¹ (2016) 9 SCC 1

number of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the first-hand account of what has actually happened, and who was responsible for the offence in question."

31. Whether an offence has been disclosed or not, must necessarily depend on the facts and circumstances of each case. If on consideration of the relevant materials, the court is satisfied that an offence is disclosed, it will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed in order to collect materials for proving the offence.

32. In the above backdrop, it is also imperative to discuss the scope of inherent power of the High Court under Section 482 of the Code. The appellants before us filed a petition under Section 482 of the Code for quashing of the FIR on the ground that the FIR was filed after a delay of 5 (five) years and is barred by territorial jurisdiction. The High Court, on the other hand, after taking note of the fact that the investigation is in the final stage in the matter and a charge-sheet is ready to be filed before the Judicial Magistrate First Class, ordered for its continuance without taking into consideration that it is barred by law. The court at Durg did not take notice of the fact that there is a legal bar engrafted in the matter for its continuance and the proceedings have been maliciously instituted after a delay of five years with an ulterior motive for wreaking vengeance on the appellants."

The other judgments relied on by the learned SPP-II and the learned counsel representing the 2nd respondent, were all considering delay and explanation thereto. In the case of

SHANTABEN BHURABHAI BHURIYA v. ANAND

ATHABHAI CHAUDHARI AND OTHERS – Criminal Appeal No.967 of 2021 decided on **26th October, 2021**, the Apex Court has held that it was the specific case of the victim that an attempt was made in getting the FIR registered on the very next day of the incident. That was not registered and a private complaint was filed four days thereafter. In those circumstances, the Apex Court held that delay was not fatal as the complainant had demonstrated that a sincere effort was made to register a complaint on 7-09-2013 which was refused to be registered and as such a private complaint was registered on 13-09-2013. Therefore, the delay therein was explained and it was only 4 days delay from the date of the incident.

11. Insofar as the judgment relied on by the learned counsel representing the 2nd respondent/complainant in the case of **RAVINDER KUMAR AND ANOTHER v. STATE OF PUNJAB – 2001 CrI.L.J. 4242** the same would become

distinguishable on the facts in the case before the Apex Court. In the said case the Apex Court was considering whether the FIR was registered after a delay of two days and whether those two days would be fatal to the case of the victim or the prosecution later. The Apex Court in the said judgment also holds that complaint should be registered without any loss of time and was declared that it was not to be fatal on the ground that it was only two days and the delay of two days in lodging the FIR cannot become a ground to quash the proceedings at the stage of investigation.

12. As observed hereinabove, in the case at hand, the delay is not two days or four days. The delay is 9 months. In the complaint registered on 1-05-2022 the period indicated is about 7 to 8 months ago and in the verbatim similar complaint registered which is second in line, the date of the incident is 13-09-2021 and the complaints admittedly are registered after about 9 months i.e., on 01-05-2022 and 05-05-2022. It is

here the judgment of the Apex Court in the case of **MANOJ KUMAR SHARMA** (*supra*) would be applicable, as the complaints so registered after 9 months are full of embellishments that too vague embellishment. In the teeth of the aforesaid complaints if further investigation or proceedings are permitted to continue, it would degenerate into harassment and result in abuse of the process of law.

13. The Apex Court in the case of **STATE OF HARYANA v. BHAJAN LAL**² has laid down postulates of interference and the same is followed to this day by the Apex Court in plethora of judgments. The Apex Court at paragraph 102 holds as follows:

"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

² **1992 Supp (1) SCC 335**

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 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.*
- (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)

Postulates 1 and 5 would become applicable to the case at hand, as at the perusal of the complaints it would demonstrate two factors i.e., improbability and *mala fide* intention. Therefore, as observed by the Apex Court, in such cases, further proceedings should not be permitted to continue.

14. For the aforesaid reasons, I pass the following:

ORDER

- (i) Writ Petitions are allowed.
- (ii) Registration of crimes in Crime No.68 of 2022 before the Harihara Rural Police and in Crime

No.143 of 2022 before Davanagere Rural Police Station are quashed.

In the light of the aforesaid order and for the reasons indicated therein, as a consequence of quashment of the registration of crime against the petitioners, I.A.No.2/2022 wherein the direction that was sought to withdraw the lookout notice against the petitioners would stand allowed and the respondents shall withdraw the lookout notice issued against the petitioners within a period of three weeks from the date of receipt of the copy of this order.

In view of disposal of the main petitions, I.A.No.1/2022 does not survive for consideration. Accordingly, stands disposed.

**Sd/-
JUDGE**

bkp
CT:MJ