

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioners are before this Court calling in question registration of a crime in Crime No.400 of 2024 registered for offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('the Act' for short) and Sections 354, 506 and 34 of the IPC.

2. Heard Smt. Lakshmy Iyengar, learned senior counsel appearing for the petitioners, Sri Rangaswamy R, learned High Court Government Pleader appearing for respondent No.1 and Sri D. R. Ravishankar, learned senior counsel appearing for respondent No.2.

3. Facts, in brief, germane are as follows:-

The 2nd respondent is the complainant. A complaint comes to be registered on 22-05-2024, on the backdrop of certain dispute between the two wearing factions. The factions are the siblings. It is the case of the complainant that after the death of her mother, the dispute between the complainant and her brothers loomed large with regard to the property bearing Sy.No.25/1. It the case of the complainant that on 18-05-2024 at about 3.00 p.m. when the victim and her brother had gone for a walk near the house, the accused/petitioners followed them in order to kill them and pushed the victim down and attempted to rape her. When she attempted to escape from the clutches of the two, she was harassed and therefore, the complaint comes to be registered against these petitioners. The registration of the complaint brings the petitioners to this Court in the subject petition. This Court, entertaining the petition, had granted an interim order of stay of further investigation on 22-07-2024. On an application seeking vacation of the interim order, the matter is heard on merits.

4. The learned senior counsel appearing for the petitioners would vehemently contend that a property dispute between the two is projected to be an offence under the Act and Sections 354, 506 and 34 of the IPC. The learned senior counsel would submit that brothers and sisters and children of those brothers and sisters have filed several civil and criminal cases against each other and all of them are pending consideration before jurisdictional Courts. Certain orders passed by the coordinate Benches in the writ petitions are also taken through by the learned senior counsel to contend that a dispute with regard to the property is projected to become the aforesaid crime only as a counterblast or to arm-twist the petitioners. She would contend that if this is permitted, it would be permitting usage of the provisions of the Act to settle personal scores. The learned senior counsel would submit that no such instance has ever happened on the said day and, therefore, investigation of crime should be quashed.

5. Per contra, learned senior counsel representing the 2nd respondent would vehemently refute the submissions to contend that the matter has not yet been investigated into. The offences

alleged are the ones punishable under Section 354 of the IPC and Sections 8 and 12 of the Act. He would contend that in such cases this Court at this juncture should not interfere and scuttle investigation. He would seek dismissal of the petition and would submit that other remedies should be left open to the petitioners.

6. For justification, this Court on the aforesaid submissions directed the State to produce original records of investigation conducted till the date on which the interim order was granted. The same is placed on record. The learned senior counsel for the petitioners would submit that the offences under Section 8 or under Section 12 of the Act, on the face of it, are not made out in the case at hand. Section 354 of the IPC is unimaginable. Therefore, she would submit that permitting investigation, in the case at hand, is an abuse of the process of the Court.

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

8. The afore-narrated facts are not in dispute. The averment in the petition is that the petitioners are the siblings and their children of the complainant. They are having property disputes throughout is also the averment in the petition. They are in squabble in several cases both civil and criminal registered against each other. They are as follows:

"14. The petitioners submit that with the rivalry between the brothers and sisters between the children of Muniyappa for property, many cases were filed both civil and criminal cases, few of them are still pending the said copies of civil and criminal cases they are detailed below:-

- (a) Crime No.399 of 2024;
- (b) Crime No.359 of 2020, C.C.No.52462 of 2021 (case and counter case);
- (c) Crime No.360 of 2020, C.C.No.52463 of 2021 (case and counter case);
- (d) Crime No.190 of 2021 (S.C.No.417 of 2023) Mahesh, Venkatesh, Arun and Sunil (Advocate, his juniors, clerk and family);
- (e) Crime No.191 of 2021 (C.C.No.53443 of 2022);
- (f) O.S.No.25985 of 2012 (compromised in mediation)
- (g) O.S.No.26279 of 2020 (presently pending). The copies of the above documents are produced herewith and marked as Annexure-C series."

Several writ petitions are also filed before this Court where certain orders are passed. The learned senior counsel would like to project that the present complaint is a counterblast to all the proceedings that are instituted by the petitioners against the complainant or the family members of the complainant. While it would have been

acceptable that it is a counterblast to all the proceedings the petitioners have instituted against the family of the complainant including the offences that are alleged under the Act. The entire issue is now triggered from the complaint. The complainant and the accused are relatives. Therefore, the thread of relationship between the complainant and the accused and the proceedings instituted against each other is necessary to be noticed while considering the complaint. The complaint reads as follows:

“ರವರಿಗೆ

ಪೊಲಿಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್

K.R. ಪುರ ಆರಕ್ಷಕ ತಾಣೆ

K.R. ಪುರಂ

ಬೆಂಗಳೂರು

ರವರಿಂದ

ಶ್ರೀಮತಿ ಹೇಮಾವತಿ 38 ವಯಶ

W/o ರಮೇಶ್, D/o ಸುಬ್ರಮಣಿ

ಚಿಕ್ಕಬಸವನ ಪುರ

ಬೆಂಗಳೂರು-49

ಮೋ: 9901748895

ದೂರು : ಸಂತೋಷ್, ರಾಮೂರ್ತಿ, ಹರೀಶ್, ಶ್ರೀಧರ್ ಯೋಗೇಶ್ ಇತರರು ನನ್ನ ಮಗ ರಂಜಿತ್ ನನ್ನ ಹೊಡೆದು ನನ್ನ ಮಗಳಾದ XXXX ಯನ್ನು ಮಾನಬಂಗೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ ಇವರುಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕಾಗಿ ದೂರು.

ಸ್ವಾಮಿ,

ನನ್ನ ಕುಟುಂಬ ಸಮೇತ ಕೂಲಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಜೀವನ ಮಾಡುತ್ತಿದ್ದೇನೆ. ನನ್ನ ತಾಯಿ ತೀರಿಕೊಂಡ ನಂತರ ಇಲ್ಲೇ ವಾಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಮ್ಮ ತಂದೆ ಹಾಗೂ ತಮ್ಮಂದಿರಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್- 25/1 ರ ಜಮೀನಿನ ವಿಚಾರವಾಗಿ ಮಂಜುನಾಥ್ ಮತ್ತು ಗೋವಿಂದಸ್ವಾಮಿ ರವರಗಳಿಗೆ ನನ್ನ ತಂದೆಯ ಮೇಲಿನ ಕೂಪಕ್ಕೆ ಇವರ ಮಕ್ಕಳಾದ ಹರೀಶ್, ಯೋಗೇಶ್, ಸಂತೋಷ್, ರಾಮೂರ್ತಿ, ಶ್ರೀಧರ್ ಹಾಗೂ ಇತರರಿಗೆ ನನ್ನ ಮಗ ಮತ್ತು ನನ್ನ ಮಗಳನ್ನು XXXX 17 ವರ್ಷ ಹಿಂಬಾಲಿಸಿ ಕೊಲೆ ಮಾಡಲು ಸೂಚನೆ ಕೊಟ್ಟಿರುತ್ತಾರೆ. 18/5/2024 ರಂದು ಸುಮಾರು 3 ಗಂಟೆಯಲ್ಲಿ ನಮ್ಮ ಮನೆಯ ಕೆರೆಯ ರಸ್ತೆಯಲ್ಲಿ ವಾಕಿಂಗ್ ಹಗಿರುವಾಗ ಸಂತೋಷ್, ಶ್ರೀಧರ್ ಹಾಗೂ ಮೆಲಿನವರು ನನ್ನ ಮಗನನ್ನು ಗಂಗೆತ್ತಿಯನ್ನು ಕೆಳಕ್ಕೆ ತಲ್ಲಿ ನನ್ನ ಮಗಳನ್ನು ಎಲೆದಾಡಿ ಮಾನಬಂಗ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದಾರೆ. ಅವರಿಂದ ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸಿದಾಗ ಸಂತೋಷ್ ಬಾಯನ್ನು ಗಟ್ಟಿಯಾಗಿ ಮುಚ್ಚಿಕೊಂಡಿರುತ್ತಾನೆ. ರಾಮೂರ್ತಿ, ಹರೀಶ್ ಮತ್ತು ಯೋಗೇಶ್ ರವರುಗಳು ನನ್ನ ಮಗಳ ಬಟ್ಟೆಯನ್ನು ಕಿತ್ತುಬಿಸಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದಾರೆ. ನನ್ನ ಮಗ ಓಡಿ ಬಂದು ನಮಗೆ ವಿಶಯ ತಿಳಿಸಿದಾಗ ನಾನು ಮತ್ತು ನಾರಾಯಣ ಮಕ್ಕಳು ಸ್ಥಳಕ್ಕೆ ಹೊಡಿ ಹೋಗಿ ನೋಡಿದಾಗ ನನ್ನ ಮಗಳು XXXX ಕಿರುಚಿಕೊಂಡು ಓಡಿ ಬರುತ್ತಿದ್ದಳು. ನಮ್ಮನ್ನು ನೋಡಿದ ಅವರಗಳ ಆಟೊ ಅತ್ತಿ ಹೋಗಿರುತ್ತಾರೆ. ನಾವು ನನ್‌ನ ಮಗಳನ್ನು ಮನೆಗೆ ಕರೆದು ಈ ವಿಷಯವನ್ನು ನನ್ನ ತಂದೆಗೆ ಹೇಳಿದಾಗ ಈ ವಿಚಾರ ಮಗಳ ಬವಿಷ್ಯದ ವಿಚಾರವಾಗಿ ಏರಿಗೂ ಹೆಳೊದು ಬೇಡ ಅಂತ ನನಗೆ ಸಮಾದಾನ ಮಾಡಿರುತ್ತಾರೆ. ಮತ್ತೆ ಈ ಮೆಲಿನ ಹುಡುಗರು ನಮ್ಮ ಮಗಳಿಗೆ ಅಥವಾ ಬೇರೆ ಯಾರಿಗಾದರೂ ಇದೆ ರೀತಿ ಮಾಡಬಹುದು ಎಂದು ಈ ದಿನ ಅವರುಗಳ ವಿರುದ್ಧ ದೂರು ನೀಡುತ್ತಿರುತ್ತೇನೆ ದಯವಿಟ್ಟು ಈ ಮೇಲೆ ತಿಳಿಸಿರುವ ಎಲ್ಲರ ವಿರುದ್ಧವು ಮಕ್ಕಳ ಮೇಲಿನ ದೌರ್ಜನ್ಯ ತಡೆ ಕಾಯ್ದೆ ಅಡಿಯಲ್ಲಿ ಕಾನೂನು ರಿತ್ಯ ಕ್ರಮ ಜರುಗಿಸಬೇಕಾಗಿ ವಿನಂತಿ.

ವಂದನೆಗಳೊಂದಿಗೆ

ತಮ್ಮ ವಿಶ್ವಾಸಿ
S. HemavaThi”

The allegation is that the victim who at that point in time 17 years old, daughter of the complainant, was pulled by her hair and allegedly touched by the petitioners. Based on the said incident which is said to have happened on 18-05-2024 a crime comes to be registered after 4 days on 22-05-2024. The moment the crime is registered, the petitioners have knocked at the doors of this Court

and this Court on 22-07-2024 interdicts the investigation. By then, certain amount of investigation had taken place. The concerned Court had also recorded the statement of the victim under Section 164 of the Cr.P.C. The statement of the victim is as follows:

“CrI.Mis. No. 6430

(Cr. No. 400/2024)

ಕೆ ಆರ್ ಪುರಂ ಪೊಲೀಸ್ ಠಾಣೆ

ನೊಂದ ಬಾಲಕಿ	-	*****
ತಂದೆಯ ಹೆಸರು	-	ರಮೇಶ್
ವಯಸ್ಸು	-	17 ವರ್ಷ
ಉದ್ಯೋಗ	-	ವಿದ್ಯಾರ್ಥಿನಿ (ಅಡ್ಮಿಷನ್ ಅಗಬೇಕು)
ವಾಸಸ್ಥಳ	-	ಚಿಕ್ಕಬಸವನಪುರ, ಕೆ.ಆರ್.ಪುರಂ, ಬೆಂಗಳೂರು

ದಿನಾಂಕ: 25.06.2024 ರಂದು ನೊಂದ ಬಾಲಕಿಯನ್ನು ಕರೆಯಿಸಿ ಪ್ರಮಾಣ ವಚನ ಬೋಧಿಸಲಾಯಿತು.

ದಂಡ ಪ್ರಕ್ರಿಯಾ ಸಂಹಿತೆ ಕಲಂ.164 ರಡಿಯಲ್ಲಿ ನೊಂದ ಬಾಲಕಿಯ ಹೇಳಿಕೆ:

ಪ್ರಶ್ನೆ: ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹೇಳಿಕೆ ನೀಡಲು ನಿಮಗೆ ಯಾರಾದರು ಒತ್ತಾಯ ಮಾಡಿದ್ದಾರಾ?

ಉತ್ತರ: ನಾನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸ್ವ ಇಚ್ಛೆಯಿಂದ ಬಂದಿದ್ದೇನೆ. ಯಾರೂ ನನಗೆ ಒತ್ತಾಯ ಮಾಡಿಲ್ಲ.

ನಾನು, ನನ್ನ ತಾಯಿ, ನನ್ನ ತಮ್ಮ ಕೆ.ಆರ್.ಪುರಂ ನ ಚಿಕ್ಕಬಸವನಪುರದಲ್ಲಿ ನನ್ನ ತಾತನ ಮನೆಯಲ್ಲಿ ವಾಸವಾಗಿದ್ದೇವೆ. ದಿನಾಂಕ 18.05.2024ರಂದು ಮಧ್ಯಾಹ್ನ 3 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ನಾನು, ನನ್ನ ತಮ್ಮ ರಂಜಿತ್, ನಮ್ಮ ಮನೆಯ ಹತ್ತಿರದ ಪಾರ್ಕ್ ಬಳಿ ವಾಕಿಂಗ್ ಗೆ ಹೋಗುತ್ತಿದ್ದೆವು. ಆ ಪಾರ್ಕ್ ಹತ್ತಿರ ಒಂದು ಅಟೋ ಇತ್ತು. ಅಲ್ಲಿ ಸಂತೋಷ್, ಶ್ರೀಧರ್, ರಾಮಮೂರ್ತಿ, ಹರೀಶ್, ಯೋಗೇಶ್ ಎನ್ನುವವರು ಇದ್ದರು. ಆಟೋ ಚಾಲಕರಾದ ವಡಿವೇಲ್ ಹಾಗೂ ಸುನೀಲ್ ಎನ್ನುವವರೂ ಅಲ್ಲಿ ಇದ್ದರು.

ಅವರ ಪೈಕಿ ಸಂತೋಷ್ ಎನ್ನುವವನು ಬಂದು ಕೈಯಿಂದ ನನ್ನ ಬಾಯಿ ಮುಚ್ಚಿ, ನನ್ನ ಸೊಂಟವನ್ನು ಹಿಡಿದುಕೊಂಡನು. ನನ್ನ ತಮ್ಮ ರಂಜಿತ್ ಅಡ್ಡ ಬಂದಿದ್ದಕ್ಕೆ ಅಲ್ಲಿದ್ದ ರಾಮಮೂರ್ತಿ ಆತನನ್ನು ಹೊಡೆದು ತಳ್ಳಿದ.

ಆದ್ದರಿಂದ ನನ್ನ ತಮ್ಮ ಕೆಳಗೆ ಬಿದ್ದಾಗ ಆತನ ಮುಖದ ಎಡಭಾಗಕ್ಕೆ ತರಚಿದ ಗಾಯಗಳಾದವು. ನನ್ನ ತಮ್ಮ ನನ್ನ ತಾಯಿಯನ್ನು ಕರೆದುಕೊಂಡು ಬರಲು ಅಲ್ಲಿಂದ ಓಡಿ ಹೋದ. **ಅಲ್ಲಿದ್ದ ಶ್ರೀಧರ್, ಹರೀಶ್ ಮತ್ತು ಯೋಗೇಶ್ ಎನ್ನುವವರು ನನ್ನ ಜುಟ್ಟನ್ನು ಹಿಡಿದು, ಎಳೆದು, ನನ್ನ ಬಟ್ಟೆಯನ್ನು ಹಿಡಿದು ಎಳೆದು ಹರಿದು ಹಾಕಿದರು.**

ನಾನು ಕಿರುಚಿಕೊಂಡಿದ್ದರಿಂದ ಪಕ್ಕದಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದ 2-3 ಜನ ಏ ಏ ಎನ್ನುತ್ತಾ ಬಂದರು. ಅವರು ಹತ್ತಿರ ಬರುತ್ತಿದ್ದಂತೆ ಗಲಾಟೆ ಮಾಡುತ್ತಿದ್ದವರೆಲ್ಲಾ ನನ್ನನ್ನು ತಳ್ಳಿ ಆಟೋದಲ್ಲಿ ಹೊರಟು ಹೋದರು. ಆ ಆಟೋ ಸಂಖ್ಯೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಅಲ್ಲಿಗೆ ಸಹಾಯಕ್ಕೆ ಬಂದವರ ಹೆಸರು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ತದನಂತರ ನನ್ನ ಅಮ್ಮ ಅಲ್ಲಿಗೆ ಬಂದು ನನ್ನನ್ನು ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ಗೋವಿಂದಸ್ವಾಮಿ ಹಾಗೂ ಮಂಜುನಾಥ್ ಎನ್ನುವವರು ಅವರಿಗೆ ಸರ್ಪೋರ್ಟ್ ಮಾಡಿ ನನ್ನ ಮೇಲೆ ಅಟ್ಯಾಕ್ ಮಾಡಿಸಿದ್ದಾರೆಂದು ಗೊತ್ತಾಯಿತು. ನಮ್ಮ ಮನೆಯ ಹತ್ತಿರ ತರಕಾರಿ ತೆಗೆದುಕೊಳ್ಳಲು ನಾವು ಹೋದಾಗ ಹರೀಶ್ ಮತ್ತು ಸಂತೋಷ್ ಎನ್ನುವವರು ನಮ್ಮನ್ನು ಕುರಿತು ಇವರನ್ನು ಸಾಯಿಸಿಬಿಡಬೇಕು ಎಂದು ಬೆದರಿಸುತ್ತಿರುತ್ತಾರೆ. ಈ ಬಗ್ಗೆ ನನ್ನ ಅಮ್ಮ ಪೊಲೀಸರಿಗೆ ಕಂಪ್ಲೇಂಟ್ ಕೊಟ್ಟಿದ್ದಾರೆ. ಪೊಲೀಸರು ನನ್ನನ್ನು ವಿಚಾರಣೆ ಮಾಡಿದ್ದು, ಈ ದಿನ ಇಲ್ಲಿ ಹೇಳಿದ ವಿಷಯವನ್ನೇ ನಾನು ಪೊಲೀಸರಿಗೆ ತಿಳಿಸಿದ್ದೇನೆ.

(ನೊಂದ ಬಾಲಕಿ ನನ್ ನ ಸಮಕ್ಷಮ ಕನ್ನಡ ಭಾಷೆಯಲ್ಲಿ ನೀಡಿದ ಹೇಳಿಕೆಯನ್ನು ಯಥಾವತ್ತಾಗಿ ಬೆರಳಚ್ಚುಗಾರ್ತಿಯಿಂದ ಬೆರಳಚ್ಚು ಮಾಡಿಸಲಾಗಿದೆ ಎಂದು ದೃಢೀಕರಿಸಲಾಗಿದೆ)

ಸಹಿ/-

ನೊಂದ ಬಾಲಕಿಯ ಸಹಿ

ಓ ಹೇ ಕೇ ಸರಿ ಇದೆ

ಸಹಿ/- 25/6/2024

41ನೇ ಎಸಿಎಂಎಂ ನ್ಯಾಯಾಲಯ, ಬೆಂಗಳೂರು.

ಸಹಿ/-

ವಿಡಿಯೋ ಮಾಡಿದವರ ಸಹಿ

(Emphasis added)

The statement of the victim narrates minute details. Insofar as the offences under the Act is concerned the statement is that her hair was pulled and clothes were torn by the said act. Except this statement, there is no statement made by the victim about the

petitioners having inappropriately touched the victim. The offences alleged are the ones punishable under Sections 8 and 12 of the Act. Section 8 of the Act read as follows:

“8. Punishment for sexual assault.—Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.”

For an offence to become punishable under Section 8 which punishes for sexual assault, the ingredients of Section 7 must be present. Section 7 reads as follows:

“7. Sexual assault.—Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.”

Section 7 defines sexual assault. Whoever, with sexual intent touches private parts of the child is said to have committed sexual assault. There is not even an iota of ingredient present insofar as Section 8 is concerned against these petitioners. The other offence is Section 12. Section 12 punishes for sexual harassment. Section 12 of the Act reads as follows:

“12. Punishment for sexual harassment.—Whoever, commits sexual harassment upon a child shall be punished with

imprisonment of either description for a term which may extend to three years and shall also be liable to fine.”

Sexual harassment is defined under Section 11 of the Act. Section 11 reads as follows:

“11. Sexual harassment.—A person is said to commit sexual harassment upon a child when such person with sexual intent—

- (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or
- (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or
- (iii) shows any object to a child in any form or media for pornographic purposes; or
- (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or
- (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or
- (vi) entices a child for pornographic purposes or gives gratification therefor.

Explanation.—Any question which involves “sexual intent” shall be a question of fact.”

Section 11 has ingredients of sexual harassment. None of these ingredients is present even to its remotest sense. Therefore, the offences under Act are loosely laid and it is only to wreak vengeance, complaint is registered against the petitioners, who have instituted several proceedings against the complainant and her family members, details of which are narrated hereinabove.

9. The other offence is the offence punishable under Section 354 of the IPC. Section 354 of the IPC reads as follows:

“354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

Section 354 punishes whoever would assault or use criminal force to any woman intending to outrage her modesty. The entire complaint is narrating frivolous details of offences under the Act. There is nothing in the complaint to even indicate that there is an offence under Section 354 of the IPC. In the absence of any ingredient under Section 354 of the IPC, permitting investigation

against these petitioners even for offence under Section 354 of the IPC would become an abuse of the process of law.

10. What remains is only Section 506 of the IPC. Section 506 of the IPC reads as follows:

"506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

Section 506 of the IPC has its ingredients in Section 503. Section 503 reads as follows:

"503. Criminal intimidation.—Whoever threatens 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 threats, 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 desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.”

The interpretation of Section 506 or the ingredients of Section 503 of the IPC need not detain this Court for long or delve deep into the matter. The Apex Court elucidates what would amount to an offence under Section 506 of the IPC which is criminal intimidation. If the ingredients of criminal intimidation as found in Section 503 is pitted *qua* the complaint, it would indicate that there is no foundation laid for an offence under Section 506 as well. Therefore, the said offence is also loosely laid.

11. The issue now would be, whether this Court could obliterate the crime, since the crime is at the stage of investigation. In this regard, it becomes apposite to refer to the judgment of the Apex Court in the case of **MAHMOOD ALI v. STATE OF UTTAR PRADESH**¹ wherein the Apex Court has held as follows:

¹ 2023 SCC OnLine SC 950

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11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

14. *State of A.P. v. Golconda Linga Swamy* [*State of A.P. v. Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held : (*Golconda Linga Swamy case* [*State of A.P. v. Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC p. 527, paras 5-7)

"5. ... Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. *When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*

6. In *R.P. Kapur v. State of Punjab* [*R.P. Kapur v. State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)

- (i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;
- (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;
- (iii) *where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death."

(Emphasis supplied)

The Apex Court directs, the Court exercising jurisdiction under Section 482 of the Cr.P.C., or under Article 226 of the Constitution of India should not restrict itself to the stage of the case, but should take note of overall circumstances leading to registration of the crime. Sometimes crimes would be registered to wreak vengeance out of private or personal grudge or as a counterblast. It is in those cases the Apex Court holds that this Court should step in and obliterate the crime.

12. Complainant is the sister and the petitioners are her brothers. They are fighting for a property by registering several cases. In that light, the crime being registered to wreak vengeance or as a counterblast cannot be accepted. Permitting further investigation into the case at hand *qua* any offence would become an abuse of the process of law and result in miscarriage of justice.

13. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) FIR in crime No.400 of 2024 pending before the Additional City Civil and Sessions Judge, FTSC-1, Bengaluru stands quashed.

Pending application, if any, also stands disposed.

Sd/-
(M. NAGAPRASANNA)
JUDGE

Bkp
CT:MJ