



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

CRIMINAL PETITION NO. 10818 OF 2023

BETWEEN:

1. SMT. SHILPA KIRAN,
AGED ABOUT 31 YEARS,
W/O KIRAN KUMAR K.V.
NEWS ANCHOR,
NEWS-1, KANNADA TV CHANNEL,
R/AT NO.44, 2ND FLOOR,
DEEWANS ROAD, SUNNADAKERI,
RAHA, MYSURU CITY
KARNATAKA - 570 016.
2. SRI. SURESHA G.S,
AGED ABOUT 48 YEARS,
S/O A. SIDDAPPA,
HEAD OF NEWS - 1, KANNADA TV CHANNEL,
R/AT NO.44, 2ND FLOOR,
DEEWANS ROAD, SUNNADAKERI,
RAHA, MYSURU CITY
KARNATAKA - 570 016.

...PETITIONERS

(BY SRI. GAURAV N., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH H.D. KOTE POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,





HIGH COURT BUILDING,
BENGALURU - 560 001.

2. SRI. JAMEER AHAMMAD,
AGED ABOUT 57 YEARS,
POLICE SUB-INSPECTOR,
H.D. KOTE POLICE STATION,
H.D. KOTE, MYSURU DISTRICT,
KARNATAKA - 571 114.

...RESPONDENTS

(BY SRI. VINAY MAHADEVAIAH, HCGP FOR R1 AND R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO
A. QUASH FIR DATED 11.12.2020 BEARING CR.NO.321/2020
PRODUCED HERETO AS ANNEXURE A WHICH WAS
REGISTERED BY THE RESPONDENT NO.1 HEREIN BASED ON
A COMPLIANT LODGED BY RESPONDENT NO.2 HEREIN
PRODUCED HERETO AS ANNEXURE B AS AGAINST THE
PETITIONER FOR THE ALLEGED OFFENCE P/U/S.290, 505(1),
34 OF IPC 1860.

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

CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioners seek the following reliefs:

- a) *To Quash FIR dated.11.12.2020, bearing
Crime No.0321/2020, produced hereto as **ANNEXURE-A**,*



*which was registered by the Respondent No.1 herein, based on a Complaint Lodged by Respondent No.2 herein, produced hereto as **ANNEXURE-B**, as against the Petitioners for the alleged offences punishable U/s 290, 505(1), 34 IPC, 1860.*

*b) To Quash the Charge Sheet dated.28.07.2022, produced hereto as **ANNEXURE-C**, filed before the Civil Judge and J.M.F.C., H.D. Kote, Mysore, in so far as the Petitioner Nos.1 & 2 are concerned, for the alleged Offences punishable U/s 290, 505 (1), 34, 499, 500 of the Indian Penal Code, 1860.*

*c) To Quash entire proceedings in C.C. NO. 5103/2022, pending on the file of the Civil Judge and J.M.F.C., H.D. Kote, Mysore, in so far as the Petitioner Nos.1 & 2 are concerned. A copy of the Entire Order Sheet maintained in the case in C.C. NO. 5103/2022, which is presently pending on the file of the Civil Judge and J.M.F.C., H.D. Kote, Mysore, is produced hereto as **ANNEXURE-D**.*

*d) Grant any such Order, Direction **AND/OR** other Relief or Reliefs as deemed fit and proper in the circumstances of the case in the interest of justice.*

2. Heard the learned counsel for the petitioners and the learned HCGP for the respondents and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioners invited my attention to the impugned FIR, in order to point out that the offences alleged against the petitioners are under Sections 290 and 505(1) of the IPC, which are non-cognizable offences and consequently, in the absence of



the necessary permission being obtained from the jurisdictional learned Magistrate under Section 155(2) of the Cr.P.C., the impugned FIR in Crime No.321/2020 dated 11.12.2020 and all further proceedings pursuant thereto, are illegal and without jurisdiction or authority of law and the same deserves to be quashed.

4. Secondly, learned counsel invited my attention to the accused persons shown in the FIR, in order to point out that the petitioners are working as News Anchor and Head of News-1 Kannada TV channel, on which, the said news is said to have been telecast and in the absence of the said TV channel/company being arraigned as a party to the FIR or the charge sheet, the impugned proceedings *qua* the petitioners - accused Nos.2 and 3, also deserves to be quashed.

5. Thirdly, learned counsel invited my attention to the charge sheet dated 28.07.2022, in order to contend that offences under Sections 499 and 500 of the IPC have also been included in the charge sheet though they were absent in the FIR. In this context, it is submitted that, in the absence of a complaint (private



complaint) by the aggrieved person, as required under Section 199 of Cr.P.C., the impugned charge sheet in relation to the aforesaid offences, also deserves to be quashed. In support of his submission, he places reliance upon the following judgments:

- (i) Sunil Bharti Mittal v. Central Bureau of Investigation reported in (2015) 4 SCC 609.
- (ii) Sri. Rajeev Chandrasekhar v. Sri. K. Koteswar Rao in Crl.P.No.101127/2015 dated 17.02.2022.
- (iii) Vaggeppa Gurulinga Jangaligi (Jangaligi) v. The State of Karnataka reported in ILR 2020 KAR 630.

6. *Per contra*, learned HCGP submits that there is no merit in the petition and the same is liable to be dismissed.

7. As rightly contended by the learned counsel for the petitioners, in the absence of necessary permission under Section 155(2) of the Cr.P.C., the impugned FIR and all further proceedings pursuant thereto in relation to the offences under Sections 290 and 505(1) of the IPC, are illegal and without jurisdiction or authority of law and contrary to the aforesaid provisions and the same deserves to be quashed, as held by the Co-ordinate Bench of this Court in the case of **VAGGEPPA GURULINGA JANGALIGI. (JANGALIGI) VS. THE STATE OF KARNATAKA** reported in ILR



2020 KAR 630, wherein at para Nos.16 to 18 and 20, has held as

follows:

"16. Therefore, this Court time and again has quashed the proceedings initiated against the accused persons in respect of non-cognizable offence on the ground that the mandatory provisions of Section 155(1) and (2) of Cr. P.C., are not complied with. However, this Court has not laid down any guidelines for the Learned Magistrates as to how and in what manner they have to pass the Order under Section 155(2) of Cr. P.C., when a requisition is submitted to the Learned Magistrate seeking permission to investigate the non-cognizable offence.

17. In the cases referred above, invariably the Learned Magistrates have passed the orders on the requisition submitted by the SHO of the Police Station by writing a word "permitted" or "permitted to investigate". This Court has held that making such an endorsement on the requisition submitted by the Police is not passing orders and there is no application of judicious mind in permitting the Police Officer to take up the investigation for non-cognizable offence.

18. Under these circumstances, this Court felt it necessary to lay down some guidelines for the benefit of our Judicial Magistrates as to how they have to approach and pass orders when requisition is submitted by the SHO of Police Station seeking permission to investigate into the non-cognizable offence. The provision of Section 155(1) and (2) of Cr. P.C., referred above make it very much clear that the SHO of the Police Station on receiving the information regarding the commission of non-cognizable offence, his first duty is to enter or cause to be entered the substance of such commission in a book maintained by such Officer and then refer the informant to the Magistrate. This is the requirement of Section 155(1) of Cr. P.C. Once the requisition is submitted to the Magistrate, it is for the Jurisdictional Magistrate to consider the requisition submitted by the SHO of Police Station and pass



necessary order either permitting the Police Officer to take up the investigation or reject the requisition. Section 155(2) of Cr. P.C., specifically provides that no Police Officer shall investigate the non-cognizable case without the order of the Magistrate having power to try such case or commit such case for trial. Therefore, passing an “order” by the Magistrate permitting the Police Officer to investigate the non-cognizable offence is an important factor. The word without the order of the Magistrate appearing in sub-Section (2) of Section 155 of Cr. P.C., makes it clear that the Magistrate has to pass an ‘order’ which means supported by reasons. On the other hand, in number of cases, the Jurisdictional Magistrates are writing a word ‘permitted’ on the requisition submitted by the Police itself which does not satisfy the requirement of Section 155(2) of Cr. P.C., Such an endorsement cannot be equated with the word ‘Order’.

20. Therefore, under Rule 1, the Magistrate shall endorse on the report whether the same has been received by post or muddam. Under Rule 2, Magistrate has to specify in his order the rank and designation of the Police Officer or the Police Officer by whom the investigation shall be conducted. Considering the mandatory requirement of Section 155(1) and (2) of Cr. P.C., and Rule 1 and 2 of Chapter V of the Karnataka Criminal Rules of Practice, this Court proceed to laid down the following guidelines for the benefit of the judicial Magistrate working in the State.

i) The Jurisdictional Magistrates shall stop hereafter making endorsement as ‘permitted ’ on the police requisition itself Such an endorsement is not an order in the eyes of law and as mandated under Section 155(2) of Cr. P.C.

ii) When the requisition is submitted by the informant to the Jurisdictional Magistrate, he should make an endorsement on it as to how it was received, either by post or by Muddam and direct the office to place it before him with a separate order sheet. No order should be passed on the requisition itself. The said order sheet should be continued for further proceedings in the case.



iii) When the requisition is submitted to the Jurisdictional Magistrate, he has to first examine whether the SHO of the police station has referred the informant to him with such requisition.

iv) The Jurisdictional Magistrate should examine the contents of the requisition with his/her judicious mind and record finding as to whether it is a fit case to be investigated, if the Magistrate finds that it is not a fit case to investigate, he/she shall reject the prayer made in the requisition. Only after his/her subjective satisfaction that there is a ground to permit the police officer to take up the investigation, he/she shall record a finding to that effect permitting the police officer to investigate the non-cognizable offence.

v) In case the Magistrate passes the orders permitting the investigation, he/she shall specify the rank and designation of the Police Officer who has to investigate the case, who shall be other than informant or the complainant."

8. A perusal of Section 199(1) of the Cr.P.C., will indicate that it is incumbent upon a person aggrieved to file a complaint (private complaint) before the learned Magistrate to take cognizance for offences punishable under Sections 499 and 500 of the Cr.P.C.

9. In the instant case, the material on record disclose that the FIR is not registered on the basis of any complaint (private complaint) given by any aggrieved person and it is only on the basis of the police report, which is not contemplated or permissible



under Section 199 of the Cr.P.C. and consequently, the impugned charge sheet in relation to offences under Sections 499 and 500 of the IPC deserves to be quashed.

10. It is undisputed fact that as borne out from the material on record that the petitioners - accused Nos.2 and 3 are working as News Anchor and Head of News-1 Kannada TV Channel and in the absence of the said entity/company being impleaded as a party or arraigned as an accused either in the FIR or charge sheet, I am of the considered opinion that in the light of the judgment of the Co-ordinate Bench of this Court in the case of **RAJEEV CHANDRASEKHAR v. K. KOTESWAR RAO** in **Crl.P.No.101127/2015 dated 17.02.2022** as well as the judgment of the Apex Court in the case of **SUNIL BHARTI MITTAL v. CENTRAL BUREAU OF INVESTIGATION** reported in **(2015) 4 SCC 609**, the impugned proceedings deserves to be quashed on this ground also.

11. In the result, I pass the following:

ORDER

(i) Criminal petition is allowed; and



- (ii) The impugned proceedings in C.C.No.5103/2022 on the file of the Civil Judge and JMFC, H.D.Kote, Mysore arising out of Crime No.0321/2020, is hereby quashed *qua* the petitioners - accused Nos.2 and 3.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SJK
List No.: 1 SI No.: 9
CT: BHK