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HC-KAR

CNR: KAHC010708622025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 14967 OF 2025

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

BETWEEN:

HAFEEZ KHASIM
S/O LATE BASITH KHASIM,
AGED ABOUT 66 YEARS,
AT PRESENT RESIDING AT
4TH MAIN, OPPOSITE TUDA OFFICE,
KUVEMPUNAGARA,
TUMAKURU CITY 572 103

...PETITIONER

(BY SRI. A. S. KULKARNI &
SRI. RAKSHAN M.K., ADVOCATES)

AND:

1. THE STATE OF KARNATAKA
BY TUMAKURU WOMEN POLICE STATION,
TUMAKURU 572 103.
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE 560 001.

2. SMT NAZIMA
W/O LATE GAIBAN KHAN,
AGED ABOUT 42 YEARS,
RESIDING AT BIBIJAN LAYOUT
B H ROAD, GUBBI GATE,
TUMAKURU 572 101.

...RESPONDENTS

(BY SRI. RANJITH KUMAR N., HCGP FOR R1;

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SRI. MOHMMED UMMAR FAROOQ., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE CHARGE SHEET REGISTERED AGAINST THE PETITIONER IN TUMAKURU WOMEN P.S. IN CR.NO.102/2025(C.C.NO.176/2025) FOR THE ALLEGED OFFENCE P/U/S 75(1)(ii),351(2) OF BNS 2023 ON THE FILE OF THE LEARNED II ADDL.SENIOR CIVIL JUDGE AND J.M.F.C TUMAKURU.

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 petitioner is before this Court seeking for the following reliefs:

   a) *Quash the charge sheet registered against the petitioner in Tumakuru Women P.S. in Cr.No.102/2025(C.C.No.176/2025) for the alleged offence p/u/s 75(1)(ii),351(2) of BNS 2023 on the file of the Learned II Addl.Senior Civil Judge and J.M.F.C Tumakuru.*

2. Respondent No.2 lodged a complaint on 04.06.2025, pursuant to which an FIR in Crime No.102/2025 came to be registered by Tumakuru Women Police Station for the offences punishable under Sections 74, 75(1)(ii), 75(1)(iv), 351(2) and 352 of the BNS.

3. The allegations in the complaint are that one Heena had introduced respondent No.2 to the petitioner.

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Respondent No.2, being in financial distress and desirous of obtaining a loan, had expressed that obtaining financial assistance from a financial institution would be difficult. She had, therefore, requested the petitioner to provide her financial assistance without charging interest. Pursuant thereto, the petitioner is stated to have advanced certain amounts of money to respondent No.2.

4. There being a delay in repayment of the amounts, several telephonic conversations allegedly took place between the petitioner and respondent No.2 regarding repayment. Ultimately, respondent No.2 claimed that the entire amount had been repaid. However, the petitioner thereafter allegedly insisted upon payment of interest. This aspect was taken up by respondent No.2 with Heena, who assured her that she would resolve the dispute and requested respondent No.2 to come to the petitioner's house on 21.04.2025.

5. It is alleged that, on 21.04.2025, respondent No.2 went near the petitioner's house at about 9.00 a.m. and found that the house was locked and nobody was present. She is stated to have contacted Heena and informed her of the same. Heena allegedly

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informed her that the petitioner would be arriving shortly and that she too was leaving her house and would come there.

6. Shortly thereafter, the petitioner arrived and, noticing respondent No.2 and her son-in-law waiting outside, called them inside the house for discussion. After some time, the son-in-law of respondent No.2 is stated to have left the premises as he was getting delayed for work. At that stage, the petitioner allegedly sought sexual favours from respondent No.2 by promising to give her money and provide whatever she desired.

7. Respondent No.2 further alleged that she managed to escape from the petitioner with considerable difficulty, contacted her son-in-law and returned home. She claims that her mental health was affected by the incident and that she was undergoing treatment. It is in that background that the complaint came to be lodged on 04.06.2025.

8. Investigation having been completed, a charge-sheet came to be filed on 16.07.2025 for the offences punishable under Sections 75(1)(ii) and 351(2) of the BNS. It is challenging the said proceedings that the petitioner is before this Court.

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9. The submission of Sri. Rakshan M.K., learned counsel appearing for the petitioner, is that, during the course of investigation, a further statement of respondent No.2 came to be recorded on 06.06.2025. In the said statement, respondent No.2 has categorically stated that, on 21.04.2025, she had visited the petitioner's house only to resolve the disputes relating to the financial arrangement between them.

10. Though she is stated to have alleged that the petitioner looked at her in an inappropriate manner, the specific allegation that the petitioner had demanded or requested sexual favours from her does not find a place in the said statement. On the contrary, respondent No.2 has categorically stated that she had not made any such allegation against the petitioner.

11. Learned counsel further submits that respondent No.2 has also stated that she had not telephoned Heena in the manner alleged in the original complaint. Thus, the essential allegation forming the basis of the offence under Section 75(1)(ii) of the BNS is expressly disowned by respondent No.2 herself during the course of investigation.

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12. It is contended that, notwithstanding the aforesaid further statement, the Investigating Officer has proceeded to file a charge-sheet for the offence punishable under Section 75(1)(ii) of the BNS. When the complainant herself has categorically denied the alleged demand for sexual favours, continuation of the prosecution would serve no purpose.

13. Learned counsel appearing for respondent No.2 does not dispute the further statement dated 06.06.2025 and its contents. Learned HCGP also does not dispute the said statement.

14. Heard Sri. Rakshan M.K., learned counsel for the petitioner, Sri. Ranjith Kumar N., learned HCGP appearing for respondent No.1 and Sri. Mohammed Ummar Farooq, learned counsel appearing for respondent No.2. Perused the papers.

15. Before considering the allegations and the material collected during investigation, it would be appropriate to extract Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which preserves the inherent jurisdiction of this Court.

"528. Saving of inherent powers of High Court.

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Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

16. The inherent jurisdiction of this Court can be exercised where the allegations made in the complaint and the material collected during investigation do not disclose the essential ingredients of the offences alleged, or where continuation of the criminal proceedings would amount to an abuse of the process of law.

17. Section 75 of the BNS, 2023 is reproduced hereunder for easy reference:

*"**75. Sexual harassment:***

(1) A man committing any of the following act:

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

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(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

18. What has been invoked against the petitioner in the charge-sheet is Section 75(1)(ii) of the BNS, which specifically deals with a demand or request for sexual favours.

19. The essential ingredient of the said provision is the existence of a demand or request for sexual favours by the accused. Unless such demand or request is alleged and supported by the material collected during investigation, the offence under the said provision cannot be sustained.

20. In the present case, the original complaint contains an allegation that, after the son-in-law of respondent No.2 left the petitioner's house, the petitioner sought sexual favours from respondent No.2 by promising her money and other benefits.

21. However, the further statement of respondent No.2 recorded on 06.06.2025 presents a materially different version of the incident. In the said statement, respondent No.2 has specifically stated

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that she had visited the petitioner's house to resolve the financial dispute between them. Though she has referred to the petitioner having looked at her in an inappropriate manner, she has categorically stated that no demand for sexual favours was made by him.

22. It is significant that the said further statement is not merely silent with regard to the demand for sexual favours. Respondent No.2 has specifically disowned having made such an allegation against the petitioner. The learned counsel appearing for respondent No.2 and the learned HCGP do not dispute the recording or contents of the said statement.

23. The allegation of the petitioner having looked at respondent No.2 in an inappropriate manner cannot, by itself, be treated as a demand or request for sexual favours within the meaning of Section 75(1)(ii) of the BNS.

24. Though the original complaint contains an allegation which, if established, would attract the provision, the subsequent statement of the very complainant, recorded during investigation, specifically negates the essential ingredient of the offence for which the charge-sheet has been filed.

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25. In the absence of any other material brought to the notice of this Court to substantiate the alleged demand or request for sexual favours, the continuation of the prosecution under Section 75(1)(ii) of the BNS cannot be sustained.

26. Section 351 of the BNS is reproduced hereunder for easy reference:

"351. Criminal Intimidation.

(1) Whoever threatens another by any means, 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.

(2) 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.

(3) Whoever commits the offence of criminal intimidation by threatening 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.

(4) Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to

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conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence under sub-section (1)."

27. A perusal of Section 351 indicates that, for the offence of criminal intimidation to be attracted, there must be a threat of injury to the person, reputation or property of another, accompanied by an intention to cause alarm or to compel such person to do an act which he or she is not legally bound to do, or to omit an act which he or she is legally entitled to do.

28. Sub-section (2) of Section 351 merely prescribes the punishment for the offence of criminal intimidation. Therefore, the essential ingredients of the offence are those contained in sub-section (1), and the same must be disclosed before the punishment prescribed under sub-section (2) can be invoked.

29. In the present case, the allegation in the original complaint insofar as criminal intimidation is concerned is that the petitioner threatened respondent No.2 with physical harm if she failed to repay the amounts allegedly due.

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30. However, in the further statement dated 06.06.2025, respondent No.2 has not sustained the said allegation. The further statement confines itself to the allegation that the petitioner looked at her in an inappropriate manner. There is no specific allegation in the said statement of any threat having been extended by the petitioner, much less a threat intended to cause alarm to respondent No.2 or to compel her to act or refrain from acting in a particular manner.

31. Thus, the material collected during investigation does not disclose the essential ingredients of criminal intimidation as contemplated under Section 351(1) of the BNS. Consequently, the offence punishable under Section 351(2) of the BNS cannot be sustained.

32. It is also relevant to notice that the FIR initially included offences under Sections 74, 75(1)(ii), 75(1)(iv), 351(2) and 352 of the BNS. However, upon completion of investigation, the charge-sheet has been filed only for the offences punishable under Sections 75(1)(ii) and 351(2) of the BNS.

33. Therefore, the consideration in the present petition is confined to the ingredients of the two offences for

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which the petitioner has actually been charge-sheeted.

34. This Court is conscious that the mere existence of inconsistencies between the complaint and a subsequent statement of a complainant would not, in every case, be sufficient to quash criminal proceedings. Ordinarily, the credibility of the witnesses and the effect of their statements are matters for appreciation during trial.

35. However, the circumstances of the present case are somewhat different. The further statement dated 06.06.2025 specifically disowns the allegation forming the essential ingredient of Section 75(1)(ii) and does not sustain the allegation of criminal intimidation. Significantly, the authenticity and contents of the said further statement are not disputed by either the complainant or the State.

36. In the absence of any other material disclosed during investigation to substantiate the alleged demand for sexual favours or the alleged criminal intimidation, this Court is of the considered opinion that the continuation of the proceedings for the offences punishable under Sections 75(1)(ii) and 351(2) of the BNS would serve no useful purpose.

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37. In that view of the matter, this Court is of the considered opinion that the petitioner has made out a case for exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS to prevent abuse of the process of law.

38. Accordingly, the petition is required to be allowed.

ORDER

(i) The criminal petition is **allowed.**

(ii) The charge-sheet and the consequential proceedings in C.C. No.176/2025, arising out of Crime No.102/2025 registered by Tumakuru Women Police Station, for the offences punishable under Sections 75(1)(ii) and 351(2) of the Bharatiya Nyaya Sanhita, 2023, insofar as the petitioner is concerned, are hereby quashed.

(iii) It is made clear that the observations made hereinabove are confined to the consideration of the present petition.

(SURAJ GOVINDARAJ)
JUDGE

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List No.: 1 Sl No.: 58