

(2026) 08 KAR CK 2101
In the Karnataka High Court, Bengaluru Bench
Case No : CRIMINAL PETITION No. 11482 OF 2025

Mr. Nimit Advani & Ors.

APPELLANT

Vs

State Of Karnataka & Anr.

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

BNSS, 2023 — Section 528
BNS, 2023 — Section 3(5), 74, 75, 79, 351(2), 352
Payment of Gratuity Act, 1972
IPC — Section 354-A, 503, 504, 506, 509
Code of Criminal Procedure, 1973 — Section 155(2), 156(1), 482
Constitution of India — Article 226

Citation : (2026) 08 KAR CK 2101

Hon'ble Judges : M. Nagaprasanna, J

Bench : Single Bench

Advocate : SRI BIPIN HEGDE, SRI B.N.JAGADEESHA

Final Decision : Allowed

Judgement

The petitioners/accused Nos.1 to 3 stand before the Court calling in question registration of a crime in Crime No.303 of 2025 registered for the offences punishable under Sections 75, 79, 351(2), 352 r/w 3(5) of the BNS.

2. Heard Sri Bipin Hegde, learned counsel appearing for the petitioners and Sri B.N. Jagadeesha, learned State Public Prosecutor-I appearing for the respondent No.1. The respondent No.2 appearing party in person is absent.

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

3.1. The petitioners are said to be the office bearers of a Company by name ReSource Pro Operational Solutions Private Limited ('the Company' for short). The 2ndrespondent/complainant joins the services of the Company on 14-04-2025 as Assistant Manager and was placed on probation for a period of six months. On 23-06-2025 owing to poor performance of the complainant/2nd respondent, she was terminated from employment by the Company, pursuant to

which the 2nd respondent communicates an e-mail to the Labour Commissioner alleging that the Company had become a place of womanizing and assault by the senior management of the Company. On 09-07-2025 a joint meeting notice was issued directing the Company to appear before the Labour Commissioner on 15-07-2025. Between 15-07-2025 and 22-07-2025 proceedings were held before the Labour Commissioner. On the next day i.e., on 23-07-2025 the complainant has registered a complaint alleging sexual harassment and inappropriate conduct and behaviour by the officers of the Company, the petitioners herein. This becomes a crime in Crime No.303 of 2025 for the aforesaid offences. On registration of the crime, the petitioners are before the Court calling in question the said registration.

3.2. A coordinate Bench of this Court by a detailed order grants interim order of stay of further investigation in terms of its order dated 04-08-2025. The order reads as follows:

“Office objections are over ruled.

Heard the learned counsel for the petitioners. Perused the records.

Respondent No.2 was initially appointed on probation in the petitioner’s company. However, her services were terminated by the company on 23.06.2025. Aggrieved by the termination, respondent No.2 approached the Labour Commissioner, raising a grievance that her termination was illegal and unjustified. It is noted from the records that she appeared before the Labour Commissioner on at least two occasions in connection with those proceedings.

While the proceedings before the Labour Commissioner pertained solely to allegations of illegal termination, respondent No.2 has now filed a complaint alleging sexual harassment at the workplace. This complaint appears to be an afterthought and a departure from the original grievance raised before the labour authorities.

Prima facie, this Court is of the view that the complaint alleging sexual harassment appears to have been lodged by respondent No.2 as a counterblast to the termination order issued by the company. The timing and sequence of events, coupled with the absence of any such allegation during earlier proceedings, warrant scrutiny.

In view of the above circumstances, this Court is of the opinion that the matter requires consideration.

Accordingly, further proceedings/investigation pursuant to the complaint dated 23.07.2025 registered by respondent No.1 at Sampigehalli Police Station, now pending before the Court of the XLI Additional Chief Metropolitan Magistrate, Bengaluru City, as against the petitioners, shall remain stayed until the next date of hearing.

Learned HCGP is directed to take notice for respondent No.1.

Issue emergent notice to respondent No.2.”

Subsequent interim orders are passed by coordinate Benches. The order passed on 03-11-2025 reads as follows:

“Respondent No.2 is present in person. She seeks time to take necessary permission to appear as party-in-person and to file Statement of Objections.

List this petition on 17.11.2025.

Interim order granted earlier is extended till the next date of hearing.”

The order passed on 17-11-2025 reads as follows:

“Learned counsel for petitioners submits that today he has been served with the application seeking vacating of stay by respondent No.2/party-in-person, but the copies of Annexures are not furnished.

Party-in-person/respondent No.2 is present before the Court. She shall serve the entire set of application filed by her seeking vacating of stay.

List this petition on 04.12.2025.

Interim order is extended till next date of hearing.”

The order passed on 04-12-2025 reads as follows:

“Heard Party-in-person/respondent No.2.

No grounds at this stage to vacate interim order of stay.

List this petition on 23.01.2026.

Interim order granted earlier is extended till the next date of hearing.”

The order passed on 12-01-2026 reads as follows:

“Registry to print the name of Sri Bipin Hegde, learned counsel as appearing for the petitioners in place of Sri Shivaprasad Shantanagoudar, learned counsel on the cause list.

List the matter on 23.01.2026 for admission.

Interim order granted earlier, is extended till the next date of hearing.”

The order passed by this Bench on 23-01-2026 reads as follows:

“Respondent No.2 – party in person appears and seeks to file an application for withdrawal of the application seeking vacation of the interim order.

A co-ordinate bench on 04.12.2025, had passed the following order:

“Heard Party-in-person / respondent No.2.

No grounds at this stage to vacate interim order of stay.

List this petition on 23.01.2026.

Interim order granted earlier is extended till the next date of hearing.”

In the afore-quoted order it is indicated that the party in-person was heard and there are no grounds to vacate the interim order of stay.

Today, respondent No.2 – party in-person submits that she was not present in the Court on 04.12.2025. Be that as it may.

The application seeking withdrawal of the application seeking vacation of the interim order would be answered along with the main matter on 26.02.2026.

List this matter on 26.02.2026, for admission.

It is made clear that no further adjournment would be granted in the matter.

Interim order granted earlier, is extended till the next date of hearing.”

The order passed on 26-02-2026 reads as follows:

“List the matter after two weeks.”

The interim order granted earlier is extended till the next date of hearing.”

On 11-03-2026, the learned counsel for the petitioners was heard and the 2nd respondent/complainant was not present. The order passed by the coordinate Bench on 11-03-2026 reads as follows:

“Heard the learned counsel Sri Bipin Hegde appearing for the petitioners. Awaiting the appearance of 2nd respondent, party-in-person, list the matter on 17.03.2026 in the same stage.

Interim order, granted earlier, is extended till the next date of hearing.”

The matter was listed on 24-03-2026. The 2nd respondent was again not present. Therefore, on 24-03-2026 the following order was passed:

“Heard the learned counsel Sri Bipin Hegde appearing for the petitioners.

The respondent No.2-party-in-person who is not present on the previous occasion, awaiting the appearance, the Court passed the following order on 23.01.2026:

“Respondent No.2 – party in person appears and seeks to file an application for withdrawal of the application seeking vacation of the interim order.

A co-ordinate bench on 04.12.2025, had passed the following order:

“Heard Party-in-person / respondent No.2.

No grounds at this stage to vacate interim order of stay.

List this petition on 23.01.2026.

Interim order granted earlier is extended till the next date of hearing.”

In the afore-quoted order it is indicated that the party in-person was heard and there are no grounds to vacate the interim order of stay.

Today, respondent No.2 – party in-person submits that she was not present in the Court on 04.12.2025. Be that as it may.

The application seeking withdrawal of the application seeking vacation of the interim order would be answered along with the main matter on 26.02.2026.

List this matter on 26.02.2026, for admission.

It is made clear that no further adjournment would be granted in the matter.

Interim order granted earlier, is extended till the next date of hearing.”

On 26.02.2026 and on 11.03.2026, the matter was listed, the respondent No.2 - party-in-person has remained absent throughout. Therefore, the counsel for the petitioners is heard.

The petitioners-accused Nos.1 to 3 are at the doors of this Court calling in question the registration of a crime in Crime No.303/2025 registered for the offences punishable under Sections 75, 79, 351(2), 352 read with Section 3(5) of BNS, 2023.

It is the case of the complainant that she joins the service on 14.04.2025 as Assistant Manager in a company by name Resource Pro Private Limited where the present petitioners were also office bearers. Owing to certain conduct of respondent No.2, it transpires that the respondent No.2 gets terminated from service. The termination is questioned before the Labour Commissioner alleging certain misgivings in the management of the Resource Pro Private Limited. Learned counsel submits that there was no allegation with regard to sexual harassment meted out against the complainant

made at any time before the Labour Commissioner.

On 23.07.2025, the subject complaint comes to be registered before the jurisdictional police alleging offences punishable under Sections 75 and 79 of the BNS, which would touch upon the sexual harassment of the complainant.

A perusal at the complaint would not meet the ingredients that are necessary to drive home an investigation even for an offence under Section 74. What is alleged is sexually coloured remarks. However, the complainant remains absent throughout.

Learned counsel for the petitioners at this juncture submits that the complaint made before the Labour Commissioner is also now closed for want of tenability.

In order to grant one last opportunity to the complainant, list this matter on 08.04.2026 at 2.30 p.m. for Further Hearing.

In the event, the complainant is not present, orders would be passed on hearing the petitioners.

Interim order granted earlier, stands extended till the next date of hearing."

The matter was adjourned to 08-04-2026. Even on that day, the complainant was not present. Therefore, the matter was heard and reserved for its order.

4. The learned counsel Sri Bipin Hegde appearing for the petitioners would vehemently contend that the complainant was placed specifically on probation for about six months. Instances of professional misbehavior had sprung in those six months. There were instances where her professional conduct was commented upon and on the incorrigible behaviour of the complainant her services come to be terminated. This termination is questioned before the Labour Court. During the proceedings pending before the Labour Court and when the complainant comes to know that the Labour Commissioner is not accepting the version of the complainant, she swings back and sets the criminal law into motion by registering the impugned crime. The learned counsel submits that if this Court were to permit a proceeding which is vitiated to wreak vengeance or as a counterblast to the action taken by the management against the complainant, it would become a travesty of justice.

5. As observed hereinabove, the complainant has remained absent on several occasions. Therefore, the learned counsel for the petitioners and the State are heard. The learned State Public Prosecutor-I would however submit that the crime is registered only on 23-07-2025 and there is an interim order operating immediately. There is no investigation conducted worth the name. He would submit that if this Court would permit investigation, they would file a final report within a time frame.

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

7. The afore-narrated facts at this juncture lie in a narrow compass. The complainant joined the services of the Company on 14-04-2025 before which an employment agreement was executed. The employment agreement also indicated termination of employment and certain other clauses. Clauses 6 and 7

which are relevant read as follows:

"6.Termination of Employment:

a. This agreement is terminable, without reasons, by either of the parties by mandatorily giving one month's prior written notice, in case of probationer and **two months prior written notice, in case of confirmed employee**. Your relieving from the services of the company shall be at the discretion of the Company and may be subject to completion of the project/assignment on hand and/or completion of knowledge transfer.

b. In either of the above cases, the Company reserves the right to put the employee under the performance Improvement Plan (PPP) on grounds of poor performance.

c. The Company may, at its discretion, relieve the Employee from such date as it may deem fit, even prior to the expiry of the notice period. However, if the Company desires the Employee to continue the employment during the notice period, the Employee shall do so. Further, the company reserves the right to relieve the employee only on completion of knowledge transfer and/or project/assignment on hand.

d. Salary in lieu of shortfall of notice period amount shall be calculated and recovered based on the employee's last drawn wages at the time of separation.

e. The Company also reserves the right to recover any notice buy-out payments, joining bonus, travel and accommodation expenses and other expenses incurred on the Employee, if the Employee resigns desiring immediate relieving.

In case the Employee relinquishes his/her employment with the Company without any notice, the Company shall have the right to deduct the notice shortfall amount, from any payment, including salary, incentive, OT pay, leaves etc. that may be due to the Employee from the Company, towards notice period shortfall recovery.

f. The company also reserves the right to hold/deduct the amounts that are due for payment to the existing/existed Employee in cases, where the Full and Final Settlement (FFS) dues are not settled by the Employee. The Company may initiate legal procedure for recovering the pending FFS dues.

g. In event of misconduct or misbehavior, or action involving moral turpitude, the Company reserves the right to terminate the Employee immediately without notice.

h. The company also has the right to terminate this Agreement due to reasons such as non-availability of sufficient work, work related challenges at the client end or such other reasons beyond the Company's control which may result in closing down sections, departments, or a portion of work temporarily

i. The Company also has the right to terminate this Agreement immediately on ethical/moral/behavioral grounds or any other reasons which affect the reputation of the Company.

j. The Company reserves the right to terminate services of the Employee under the Company's attendance policy (unauthorized absence for a period of 4 days will lead to disciplinary action which may finally lead to termination). In the event of such a termination, the Company will not be liable for any notice or pay. In such circumstances, the Employee shall be liable to pay for the notice period. In the event the Employee does not pay for the notice period, the Company reserves its right to offset any payments due to the Employee from the Company, against such notice period, as applicable.

The Employee will be governed by the Company's code of conduct/policies and if there is any breach of policies, or non-performance of contractual obligations on the Employee's part, his/her services will be terminated without any notice, notwithstanding any other

terms and conditions stipulated herein. The Company further reserves its right to invoke other legal remedies as it deems fit, to protect its legitimate interests.

7. Temporary Closure, lay-offs and Retrenchment:

The Company at any time due to shortage of power or any other resources, non-availability of sufficient work, work related challenges at the client end, breakdown of equipment, technology or such other reasons beyond its control may close down sections, departments or a portion of work temporarily. During such closure the Employee will be liable to receive compensation, if any, as per the terms mentioned in this Agreement and in accordance with applicable labour laws.”

The letter of appointment which was issued to the complainant reads as follows:

Annexure-1

COMPENSATION DETAILS

Name: xxxxx

Designation: Assistant Manager, SDU, India

Date of Joining: 4-14-2025.

Salary break-up	Amount	Monthly
Basic	540000	45000
HRA	270000	22500
Special Allowance	222420	18535
Total Fixed Pay (A)	1032420	86035
Benefits		
PF-Company Contribution	21600	1800
Gratuity	25980	2165
Total Benefits (B)	47580	3965
Variable Bonus (C)	120000	
Total cost to Company (A+B+C)	1200000	90000

- You will be entitled to Gratuity payment only on completion of 3 years of service and this payment shall be in accordance with the Payment of Gratuity Act, 1972.
- You will be eligible for a Medical Insurance of INR 5,00,000/- for self, spouse & 2 dependent children (up to the age of 25 years), Group Personal Accident & Group Term life. The premium of the same is paid by the company.
- Transport charges would be deducted from the monthly gross salary if company transport is availed as per the terms of the transportation policy.
- Payment of Shift allowance is subject to vary based on the actual shift assignment/working. The employee may be eligible for shift allowance, calculated on actual days worked basis, only if he/she has worked in the following real time shifts:

First Shift – 12-00PM/01-00PM TO 09-00PM/10-00PM-INR2,200/- per month.

Second shift -06-30PM/07-30PM TO 03-30AM/04-30AM – INR 5,500/- per month.

Third Shift – 08-30PM/09-30PM TO 05-30AM/06-30AM – INR 7,700/- per month”

It was found that the complainant was lacking in optimal performance. Therefore, the termination of employment comes about on 23-06-2025 which reads as follows:

“ReSourcePro

Date: 23-06-2025

To xxxxx Emp.Id-xxxx

TERMINATION ORDER

1. You have been working with ReSourcePro Operational Solutions Pvt. Ltd.(‘the Company’) as Assistant Manager since 14-04-2025. You have read, understood, and agreed to the terms of the Employment Agreement dated 14-04-2025.

2. The company has decided to terminate you from the services of the Company as per the terms and conditions set out in Clause 6a of the Employment Agreement. Accordingly, your services are hereby terminated, and you stand relieved from the services of the Company forthwith.

3. The Company will pay you one month of pay in lieu of notice, as per Clause 6a.

4. The details with respect to the full and final settlement and other terminal dues will be sent to you as separate advice.

5. You are requested to hand over all the Company’s properties/assets and other documents, if any in your possession, to the Company. An acknowledgment will be given to you once the properties are handed over.

6. Upon return of the Company’s assets, your other terminal dues, if any, will be settled. A separate communication in this regard will be sent.

For ReSourcePro operational Solutions Pvt. Ltd.

Sd/-

Imran Khan, Senior Manager, Talent Operations & Total Rewards, India.”

On the said termination, the complainant knocks at the doors of the Labour Commissioner by registering a complaint through electronic mail. The complaint reads as follows:

“Hi Sir,

This is in regarding to the assault that I been through from Resource pro bangalore, India management team. Mr. Satish marudhukavil & the great Vice president Mr. Nimit Advani.

Bangalore, India ReSource Pro became the place for womanizing & assaulting space for Sr. management of the company.

Requesting you to consider this as my legal written petition and do the needful.

Facts of my petition as follows:

1) I joined Resource pro as an Assistant Manager on 14 April 2025.

2) I repeatedly faced misconduct from my line manager Satish marudhukavil.

3) I did raised the concern with the great Vice president Mr. Namit Advani_zero actions

taken.

4) Finally I forced to raise the complaint to the HR team.

5) HR team along with the great Vice president Mr. Nimit Advani scheduled a meeting on 5 June 2025. Followed convinced me that they would do the investigation and get back to me, till then I should be on leaves.

6) On 23 June 2025, the HR Mr. Ravish called me up on for a meeting and shared the attached termination letter.

Below are my submissions:

1) I am being the petitioner of the petition, however no investigation report or update shared on my complaint by Resource pro Bangalore team which I had raised on 5 June 2025.

2) I raised the complaint to the HR team not to VP Nimit Advani. Why would he has been part of discussions?

3) If the termination letter is real, I would like to get the clarification with all the legal artifacts.

4) I should be compensated for my job loss and all the mental trauma that I been from the management team of Resource pro bangalore, India.

5) I may also, seek in help from labour commission and the legal team of labour commission if required to file a petition in front of honorable High court or Honorable Supreme court India to stay all the business of Resource pro until a detailed investigation on employee retention and assault is been completed.

Kindly also note that the leadership team retention percentage at Resource pro bangalore is just below 30% as to the humiliation, womanization and assault that employees go through from the Sr management. All the above should be investigated from the labour commission and should take necessary action. The VP Nimit Advani literally threaten, assault, humiliate and abuse leadership team. If an employee voice out against him employees are just terminated.

Kindly also note that the great Sr VP India, is busy sleeping so we don't see any value added by him to the employees hence not been marked him to this email.

Looking forward to hear from all of you!

Thank you!

xxxxx

On Wed.25 Jun, 2025, 11-08 a.m. Ravish Raju, <Ravish_Raju@resourcepro.in>wrote:

Hi xxxxx,

Good Morning,

Please find the attached termination order for your reference. You will receive one month's notice period pay as per the employment agreement.

"23-07-2025

From:

xxxxxx xxxxxx xxxxxx xxxxxx.

To

The Inspector of Police, SHO, Sampigehalli, Bangalore.

Sub: Complaint against the Vice-President, the line Manager & the HR (ReSource Pro)

Respected Sir/Madam,

Myself xxxxx the erstwhile employee of above firm was joined the organization on 14th April, 2025. From the date of joining I did face a corning and sidelining and a mental torturing from my line Manager Satish marudhukavil. Hence, I did raise the same complaints to VP, Nimit Advani on 7-05-2025. Followed, Nimit Advani scheduled a one on one discussion on 13-05-2025 in his cabin.

The meeting was started by 7-30 p.m. on 13-05-2025. Throughout the meeting Nimit Advani was using sexual coloured remarks stating "you are hot and sexy and you are matured enough to handle a man, you are very hot and very attractive etc. Apart from that he also made un-welcomed non-verbal contact of nature by staring at my breast and showing his sexual desperation on me, for a considerable time. And I been suffocated by his behaviour and I have shouted at him stating "stop your desperation" and escaped from his chamber.

Suddenly, on 9th June 2025 when a meeting was scheduled by the HR team based on my complaint that I had raised only to HR, Nimit Advani also joined the meeting. Nimit Advani started threatening and misbehaving with me in front of the HR also. The entire assault and harassment went on for 3 hours on 9-06-2025 from 8.30 p.m. till 12.00 am. Followed H.R. stated they will investigate my complaint and update me and I can go on paid leaves. I attended 23-06-2025 the meeting was scheduled by HR team again and they shared of termination letter. HR name Ravish Raju.

Nimit Advani used sexually coloured words also unwelcomed and non-verbal contact of nature by staring at my private parts to show his sexual desperation on me. While I raised my voice against his misconduct he threatened me that he will terminate my employment and used languages .."you the bloody hell lady, you lady go to hell and go to Court".

The above acts are punishable under the provisions of law. Hence, it is humbly prayed that this Honorable Authority may consider this representation, make an enquiry, punish the wrong doers and redress my grievance.

xxxxxx xxxxxx xxxxxx xxxxxx

Yours faithfully,

Sd/-xxxxxx."

This becomes a crime in Crime No.303 of 2025 for the offences punishable under Sections 75, 79, 351(2) and 352 r/w 3(5) of the BNS. They read as follows:

"75. Sexual harassment.—(1) A man committing any of the following acts—

- (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.

(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.

... ..

79. Word, gesture or act intended to insult modesty

of a woman.—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.

... ..

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.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

(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 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).

352. Intentional insult with intent to provoke

breach of peace.—Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 75 of the BNS punishes a person who sexually harasses a woman. It corresponds to Section 354-A of the earlier regime, the IPC.

9. A perusal at the complaint would nowhere indicate that ingredients of sexual harassment are even met in the case at hand. A complaint is registered before the Labour Commissioner which is also left high and dry by the complainant. The other offence is Section 79 of the BNS which is Section 509 of the earlier regime, the IPC dealing with word, gesture or act intended to outrage the modesty of a woman. These words find a place in the complaint. But the act of the complainant in wreaking vengeance for termination of the services of the complainant or as a counterblast, cannot be brushed aside. The other offences are the ones punishable under Sections 351 and 352 of the BNS which are Sections 504 and 506 of the earlier regime, the IPC which cannot be seen to be made out in the case at hand. It is in these circumstances the Apex Court in the case of **MAHMOOD ALI v. STATE OF UTTAR PRADESH¹**, has directed that the Court exercising jurisdiction under Section 482 of the Cr.P.C., or Section 528 of the BNSS has to walk beyond the complaint, look into the circumstances, consider whether the complaint has been made to wreak vengeance or as a counterblast or otherwise. Two of which are clearly present in the case at hand as the complaint being registered as a counterblast and to wreak vengeance against these petitioners. The Apex Court, in the said judgment viz., **MAHMOOD ALI** has held as follows:

"....

10. The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] . The parameters are : (SCC pp. 378-79, para 102)

"102. ... (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 Act concerned (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 Act concerned, 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.”

We are of the view that the case of the present appellants falls within Parameters 1, 5 and 7, respectively, of *Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] .

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 later in **MOHD. WAJID v. STATE OF UTTAR PRADESH** interpreting what could become the ingredients of Sections 504 and 506 of the Cr.P.C., has held as follows:

"... ..

Sections 503, 504 and 506 IPC

25. Chapter XXII IPC relates to criminal intimidation, insult and annoyance. Section 503 reads thus:

"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 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.

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."

26. Section 504 reads thus:

"504. **Intentional insult with intent to provoke breach of the peace.**—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

27. Section 506 reads thus:

"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."

28. **An offence under Section 503 has the following essentials:**

(1) **Threatening a person with any injury;**

(i) **to his person, reputation or property; or**

(ii) **to the person, or reputation of any one in whom that person is interested.**

(2) **The threat must be with intent;**

(i) **to cause alarm to that person; or**

(ii) **to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or**

(iii) **to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.**

29. **Section 504 IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.**

30. **In judging whether particular abusive language is attracted by Section 504 IPC, the court has to find out what, in the ordinary circumstances, would be the**

effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

31. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504 IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace or an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504 IPC if he merely uses abusive language against the complainant. In *King Emperor v. Chunnibhai Dayabhai* [*King Emperor v. Chunnibhai Dayabhai*, (1902) 4 Bom LR 78] , a Division Bench of the Bombay High Court pointed out that:

"To constitute an offence under Section 504 IPC it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds."

(emphasis supplied)

32. A bare perusal of Section 506 IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.

33. In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a prima facie case to constitute the offence punishable under Section 506 IPC may probably could be said to have been disclosed but not under Section 504 IPC. The allegations with respect to the offence punishable under Section 504 IPC can also be looked at from a different perspective. **In the FIR, all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the form of abuses is not stated in the FIR.**

34. **One of the essential elements, as discussed above, constituting an offence under Section 504 IPC is that there should have been an act or conduct amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present."**

....

37. 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 the alleged offence are disclosed or not.

38. 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.” (Emphasis supplied at each instance)

10. In the light of the afore-narrated facts, a perusal at the complaint and its backdrop, the inescapable conclusion is that criminal law being set into motion by the complainant only to wreak vengeance or as a counterblast to the action taken by the petitioners against the complainant. Permitting further investigation in the case at hand would, on the face of it, become an abuse of the process of law and result in miscarriage of justice.

11. For the aforesaid reasons, the following:

ORDER

(i) Criminal Petition is **allowed**.

(ii) FIR in Crime No.303 of 2025 registered against the petitioners by the Sampigehalli Police Station pending before the 41st Additional Chief Judicial Magistrate, Bengaluru stands quashed.

(iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioners under Section 528 of the BNSS. The findings rendered herein would not become applicable or influence or bind the proceedings pending before any other *fora*.

Consequently, Pending applications if any, also stand disposed.

FOOTNOTES

1. **2023 SCC OnLine SC 950**
2. **2023 SCC OnLine SC 951**