

**(2010) 11 KAR CK 0077**  
**In the Karnataka High Court**  
**Case No : Criminal Petition No. 4360 of 2008**

Sri Parasmal Rathod Jain

APPELLANT

Vs

Chickpet Police Station and Another

RESPONDENT

**Date of Decision :** 11-11-2010

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 156 (3), 200

**Citation :** (2011) ILR (Kar) 1328 : (2011) 1 KCCR 839 : (2011) 7 RCR(Criminal) 633

**Hon'ble Judges :** B. Sreenivase Gowda, J

**Bench :** Single Bench

**Advocate :** Ramesh Chandra and S.N. Basavaraju, for the Appellant; B. Rajabalasubramanya Bhat, High Court Government Pleader for Respondent 1 and H.N. Manjunath, for Respondent 2, for the Respondent

## Judgement

B. Sreenivase Gowda, J.—The Petitioner in the above petition has sought for quashing of entire proceedings in C.C. No. 7767/2008 pending on the file of IX ACMM, Bangalore.

2. Heard the learned Counsel appearing for the Petitioner and learned HCGP for the Respondent No. 1. Despite granting time, there is no representation for Respondent No. 2.

3. That on 04.06.2007, the Respondent No. 2 filed a private complaint against the Petitioner before the Trial Court u/s 200 of Code of Criminal Procedure In paragraph 5 of complaint, it is alleged that the complainant is the President of the Adinatha Temple Trust, Chickpet and the Petitioner-accused started to interfere in the administration of the temple and all the members of the temple opposed and asked him to leave the premises. The complainant being the president of the trust had to take steps and hence accused started to blame and file applications stating that the trust members are mis-using the temple and the complainant though is not the owner of the building, is constructing building by violating the rules and regulations. In paragraph 6 of the complaint, it is alleged

that the complainant got issued notice dated 16.04.2007 to the Petitioner calling upon him to stop the mischief played by him within 15 days from the date of receipt of the notice. In paragraph 8 of the complaint, it is alleged that the Petitioner by playing mischief and threatening to his life, has committed the offence punishable u/s 426, 427 and 506 of IPC.

4. The Trial Court by registering the complaint as PCR No. 12325/2007 referred the same to the first Respondent-police for investigation u/s 156(3) of Code of Criminal Procedure, The police by obtaining additional statement from the complainant on 7.8.07 to the effect that on 17.05.2007 the Petitioner- accused attacked him on the Chickpet Main Road in front of construction of building undertaken by him at No. 202, 203, 203/1 and abused him with filthy language and thereby committed the offence, filed the charge sheet for the offence punishable u/s 323, 341, 504 and 506 of IPC and dropped the case against the Petitioner in respect of offences punishable under Sections 426 and 427 of IPC.

5. The point that arises for my consideration is when Magistrate refers the private complaint filed u/s 200 of Code of Criminal Procedure to jurisdictional Police for investigation u/s 156(3) of Code of Criminal Procedure, the police except investigating the complaint referred to them can they take additional statement and enlarge the scope of investigation beyond the complaint referred to them by Magistrate.

6. After hearing the learned Counsel appearing for the parties and perusing the records and relevant provisions of law, I hold that once a private complaint presented by a complainant u/s 200 of Code of Criminal Procedure before a Magistrate is referred to jurisdictional police for investigation u/s 156(3) of Code of Criminal Procedure, the police cannot take additional statement and enlarge the scope of investigation beyond the scope of complaint referred to them for investigation and file charge sheet for altogether a different offence than one alleged in the private complaint presented u/s 200 of Code of Criminal Procedure

7. It is to be noted that the offences alleged in the private complaint filed by the complainant against the Petitioner before the Trial Court are under Sections 426, 427 and 506 of IPC and the Trial Court registering the said complaint referred the same to first Respondent-police for investigation. So, the scope of investigation is to be confined to the offence alleged in the private complaint presented before the Trial Court and referred to police, the police after receipt of complaint could not have obtained additional statement and filed charge sheet for the offence other than for which the complaint was referred to them for investigation. Besides, in the entire private complaint presented before the Court, there is no reference to the allegations that on 17.05.2007, the Petitioner attacked the complainant on the Chickpet Main Road in front of his building and abused him with filthy language. A perusal of allegations made in the private complaint, disclose that the Petitioner raised objections with regard to construction of building by the complainant and it does not contain the allegations that on 17.05.2007, the Petitioner-accused attacked the 2nd Respondent complainant on

the Chickpete Main Road in front of construction of building undertaken by him at No. 202, 203, 203/1 and It is included for the first time in the additional statement furnished on 07.08.2007. The investigation held by the 1st Respondent-police is beyond the scope of private complaint presented by the 2nd Respondent and referred by the Trial Court to the 1st Respondent-police for investigation. Therefore, continuation of such criminal proceedings will not serve any useful purpose rather it would result in abuse of process of law.

8. The learned HCGP does not dispute the above facts and position of law.

9. For the reasons stated above, the criminal petition is allowed. Proceedings in C.C. No. 7767/2008 pending on the file of IX ACMM. Bangalore are quashed.