



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 4TH DAY OF MARCH, 2025
BEFORE
THE HON'BLE MR. JUSTICE M.NAGAPRASANNA
CRIMINAL PETITION NO. 100090 OF 2024**

BETWEEN:

RAMESH S/O KRISHNAPPA KAROSHI
AGE. 35 YEARS,
OCC. HOME-GUARD
R/O.TUNGAL – 587 330
TQ.JAMAKHANDI
DIST. BAGALKOT.

...PETITIONER

(BY SRI. PRASHANT S. KADADEVAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD BENCH
THROUGH JAMAKHANDI TOWN P.S.
2. SMT. VIDYA M. KERUR
AGE. 38 YEARS,
OCC. POLICE OFFICER
R/O. JAMKHANDI – 587 301
TQ.JAMAKHANDI
DIST. BAGALKOT.





...RESPONDENTS

(BY SRI JAIRAM SIDDI, HCGP FOR R-1 (VC);
R2 SERVED AND UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC
NO.1190/2023 PENDING ON THE FILE OF THE PRL.CIVIL
JUDGE AND JMFC, JAMAKHANDI FOR THE OFFENCES
PUNISHABLE U/S 353, 506 OF IPC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
THE COURT MADE THE FOLLOWING:

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

ORAL ORDER

The petitioner is before this Court calling in question the
proceedings in C.C.No.1190 of 2023 registered for offences
punishable under Sections 353 and 506 of the IPC.

2. Heard Sri Prashant S Kadadevar, learned counsel
appearing for petitioner and Sri Jairam Siddi, learned High
Court Government Pleader appearing for respondent No.1.

3. Facts in brief germane are as follows:

The 2nd respondent, Police Inspector of Jamkhandi Town
police station is the complainant. A complaint comes to be



registered on 21-2-2023 alleging that the petitioner who was working as a home guard has raised his voice demanding certain documents from the hands of the complainant. Based upon such act of raising of voice, the complaint comes to be registered against the petitioner in crime No.24 of 2023 for the afore-quoted offences. The police conduct investigation and file a charge sheet against the petitioner and the concerned Court registers it as C.C.No.1190 of 2023 for offences punishable under Sections 353 and 506 of the IPC. The registration of the criminal case is what has driven the petitioner to this Court in this subject petition.

4. Learned counsel appearing for the petitioner Sri Prashant S Kadadevar would submit that except raising of the voice, there is no other allegation against the petitioner. The incident of raising of voice is blown out of proportion by the police is his submission.

5. The 2nd respondent-complainant though served has remained unrepresented even today.



6. Learned High Court Government Pleader representing the State would however refute the submission of the petitioner contending that there are about 5 eyewitnesses to the incident and therefore, it is a matter of trial for the petitioner to come out clean.

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

8. The afore-narrated facts are not in dispute. The petitioner working as a home guard is a matter of record. The 2nd respondent complainant working as a Head Constable in the Jamkhandi town police station at the relevant point in time, is also a matter of record. The entire issue has sprung from an incident that has happened on 21-2-2023 which becomes the complaint registered by the 2nd respondent. The complaint reads as follows:

“ಗೆ,

ಮಾನ್ಯ ಪಿಎಸ್‌ಐ ಸಾಹೇಬರು
ಜಮಖಂಡಿ ಶಹರ ಪೊಲೀಸ್ ಠಾಣೆ



ನಾನು ವಿದ್ಯಾ ಎಮ್ ಕೆರೂರ ಡಬ್ಲ್ಯೂಎಚ್‌ಸಿ-1413 ವಯಾ 38 ವರ್ಷ ಜಮಖಂಡಿ
ಗ್ರಾಮೀಣ ಪೊಲೀಸ್ ಠಾಣೆ ಮೊಬೈಲ್ ನಂಬರ್: 9739149452 ಗಣಕೀಕರಣ ಮಾಡಿ ಕೊಟ್ಟ
ಫರ್ಯಾದಿ ದಿನಾಂಕ: 21.02.2023,

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ನಾನು ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಈಗ 4 ತಿಂಗಳಿನಿಂದ ಡಬ್ಲ್ಯೂಎಚ್‌
ಸಿ ಅಂತಾ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಈ ದಿವಸ ದಿನಾಂಕ 21.02.2023 ರಂದು ಮುಂಜಾನೆ
08.00 ಗಂಟೆಯಿಂದ ಮಧ್ಯಾಹ್ನ 14.00 ಗಂಟೆಯವರೆಗೆ ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ್
ಠಾಣೆಯಲ್ಲಿ ಎಸ್ ಎಚ್ ಓ ಕರ್ತವ್ಯದಲ್ಲಿ ಇದ್ದೆನು. ನನ್ನಂತೆ ಡಬ್ಲ್ಯೂಪಿಸಿ 1483 ಎಸ್.ಪಿ ನಾಟಕಾರ
ಇವರು ಪಹರೆ ಕರ್ತವ್ಯದಲ್ಲಿ, ಶ್ರೀ ಬಿ.ಎಸ್. ಬಿರಾದಾರ ಎ.ಎಸ್.ಐ ಮತ್ತು ಎಸ್.ಎಮ್. ಬಡಿಗೇರ
ಸಿಪಿಸಿ 775 ಇವರು ತನಿಖಾ ಸಹಾಯಕರು ಅಂತಾ ಠಾಣೆಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದರು.
13.00 ಗಂಟೆ ಸುಮಾರಿಗೆ ಒಬ್ಬ ವ್ಯಕ್ತಿ ಎಸ್.ಎಸ್.ಓ ಟೇಬಲ್ ಹತ್ತಿರ ಬಂದು ತಾನು ಸಾವಳಗಿ
ಗೃಹ ರಕ್ಷಕ ದಳದ ಯುನಿಟ್ ಆಪೀಸರ ಇದ್ದು ನನ್ನ ಹೆಸರು ರಮೇಶ ತಂದೆ ಕೃಷ್ಣಪ್ಪ ಕರೋಸಿ
ವಯಾ 35 ವರ್ಷ ಸಾ: ತುಂಗಲ ಇರುತ್ತದೆ. ನಮ್ಮ ಸಂಬಂಧಿಕರ ಕ್ರೂಸರ ದಿನಾಂಕ
18.02.2023 ರಂದು ಹುಲ್ಲಾಳ ಹತ್ತಿರ ಮೋಟಾರ ಸೈಕಲದ ಸವಾರನಿಗೆ ಹಾಯಿಸಿ ಅಪಘಾತ
ಪಡಿಸಿದ ಬಗ್ಗೆ ನಮ್ಮ ಸಂಬಂಧಿಕರ ಕ್ರೂಸರ ನಂ ಕೆಎ-48/ಎಮ್-6829 ನೇದ್ದರ ಮೇಲೆ ಪ್ರಕರಣ
ದಾಖಲಾಗಿದ್ದು ಇರುತ್ತದೆ. ನಾನು ನಮ್ಮ ಕ್ರೂಸರ ಬಿಡುಗಡೆ ಮಾಡಿಕೊಳ್ಳುವ ಕುರಿತು
ಬಂದಿರುತ್ತೇನೆ ಅಂತಾ ಹೇಳಿದಾಗ ನಾನು ಮಾನ್ಯ ಪಿಎಸ್‌ಐ ಸಾಹೇಬರು ಮಾನ್ಯ ಸಿಪಿಐ
ಸಾಹೇಬರ ಮಿಟಿಂಗ್ ದಲ್ಲಿ ಇದ್ದುದರಿಂದ ನೀವು ಸ್ವಲ್ಪ ಕುಳಿತುಕೊಳ್ಳಿ ಅಂತಾ ಹೇಳಿದಾಗ ಆ
ವ್ಯಕ್ತಿಯು ಕುಳಿತುಕೊಳ್ಳದೆ ಹಾಗೇ ತನಿಖಾ ಸಹಾಯಕರ ರೂಮ ಹತ್ತಿರ ಹೋಗಿ ನನ್ನ ಗಾಡಿ ನನಗೆ
ಬಿಡಿ ಅಂತಾ ಏರು ಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡಲಿಕ್ಕೆ ಹತ್ತಿದಾಗ ಬಾಯಿ ಸಪ್ಪಳ ಕೇಳಿ ಮೇಲ್ಕಂಡ
ಅಧಿಕಾರಿ ಹಾಗೂ ಸಿಬ್ಬಂದಿಯವರು ಬಂದು ಏಕೆ ಬಾಯಿ ಮಾಡ್ತೀರಿ ಸ್ವಲ್ಪ ತಡೆಯಿರಿ ಮೆಡಮ್
ರವರು ಬರುತ್ತಾರೆ ಅಂತಾ ಹೇಳಿದರೂ ಕೂಡಾ ನನ್ನೊಂದಿಗೆ ಏರು ಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡುವಾಗ
ತನಿಖಾ ಸಹಾಯಕರಾದ ಎಎಸ್‌ಐ ಬಿ ಎಸ್ ಬಿರಾದಾರ ಹಾಗೂ ಸಿಪಿಸಿ 775 ರವರು ಸ್ವಲ್ಪ
ತಡೆಯಿರಿ ಬರುವ ಸಮಯ ಆಗಿದೆ. ಯಾಕೇ ಬಾಯಿ ಮಾಡುತ್ತಿದ್ದಿರಿ ಕೆಲಸಕ್ಕೆ ಯಾಕೆ ಅಡತಡೆ
ಮಾಡುತ್ತಿದ್ದಿರಿ ನಿಮ್ಮ ಗಾಡಿ ಡೈವರ ಎಕ್ಸಿಡೆಂಟ್ ಮಾಡಿ ಓಡಿ ಹೋಗಿರುವನು ಅವನು ಯಾರು
ಅಂತಾ ಗೊತ್ತಿಲ್ಲ ಅವನಿಗೆ ಹಾಗೂ ಮಾಲೀಕರಿಗೆ ಕರೆಯಿಸಿರಿ ಅಂತಾ ಅಂದಾಗ ಅವನು ನಾ
ಯಾರನ್ನು ಕರೆಸುವುದಿಲ್ಲ ನಾ ಯಾರ ಅನ್ನುದ ನಿಮಗೆ ಗೊತ್ತೆತ್ತಿಲ್ಲೇ ನನ್ನ ಬಗ್ಗೆ ಸಾವಳಗಿ
ಪೊಲೀಸರನ್ನ ಕೇಳಿ ನೋಡಿ ಯಾರು ಅನ್ನೋದು ಗೊತ್ತಾಗತೈತಿ ನಮ್ಮ ಗಾಡಿ ನಮಗೆ ಬಿಡಿ ಅಂತಾ
ಪುನಃ ಏರು ಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡಿ ನಾನು ನಿರ್ವಹಿಸುತ್ತಿರುವ ಸರಕಾರಿ ಕರ್ತವ್ಯಕ್ಕೆ ಅಡತಡೆ
ಮಾಡಿದ್ದು ಇರುತ್ತದೆ. ಅಷ್ಟರಲ್ಲಿ ಪಿ.ಎಸ್.ಐ ಮೆಡಮ್ ರವರು ಬಂದಿದ್ದು ಅವರಿಗೆ ಘಟನೆಯ ವಿಷಯ
ತಿಳಿಸಿ ಅವರೊಂದಿಗೆ ವಿಚಾರಿಸಿಕೊಂಡು ಈಗ ತಮ್ಮ ಕಡೆಗೆ ಬಂದು ದೂರು ನೀಡಿದ್ದು ಸದರಿಯವನ
ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ನನ್ನ ಫರ್ಯಾದಿ ಇರುತ್ತದೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-



(ವಿದ್ಯಾ ಎಮ್ ಕೆರೂರ ಡಬ್ಲ್ಯುಎಚ್‌ಸಿ 1413)
ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ರಾಣೆ."

The allegation in the complaint is that the petitioner has raised his voice and hurled abuses against the 2nd respondent complainant. The police conduct investigation and file a charge sheet against the petitioner. The summary of the charge sheet as obtaining in column no.17 reads as follows:

"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಸನ್ನಿಧಿ ಕೋರ್ಟ್ ಸ್ಥಳ ಸೀಮೆಯ, ಜಮಖಂಡಿ ಶಹರ ಪೊಲೀಸ ರಾಣೆ ಹದ್ದಿ ಪೈಕಿ, ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ರಾಣೆಯ ತನಿಖಾ ಸಹಾಯಕರ ಕೋಣೆಯಲ್ಲಿ ದಿನಾಂಕ 21-02-2023 ರಂದು 13.00 ಗಂಟೆಗೆ ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂ: 12 ರಲ್ಲಿ, ನಮೂದ ಮಾಡಿದ ಆರೋಪಿತನು ಸಾವಳಗಿ ಘಟಕದ ಗೃಹ ರಕ್ಷಕ ದಳದ ಯುನಿಟ್ ಆಫೀಸರ ಇದ್ದು, ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ರಾಣೆ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಸಂಭವಿಸಿದ ರಸ್ತೆ ಅಪಘಾತದಲ್ಲಿ ಭಾಗಿಯಾದ ತನ್ನ ಸಂಬಂಧಿಕರ ಕ್ರೂರ ವಾಹನ ನಂ: KA-48/M-6829 ನೇದ್ದರ ಬಿಡುಗಡೆ ಸಲುವಾಗಿ ಜಮಖಂಡಿ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ರಾಣೆಗೆ ಬಂದು ಎಸ್.ಎಚ್.ಓ ಕರ್ತವ್ಯದ ಮೇಲಿದ್ದ ಫಿರ್ಯಾದಿಯವರಿಗೆ ನೀವು ನಮ್ಮ ಸಂಬಂಧಿಕರ ಕ್ರೂರ ವಾಹನವನ್ನು ಈಗಲೆ ಬಿಡುಗಡೆ ಮಾಡಬೇಕು ಅಂತಾ ಅನ್ನುತ್ತಿರುವಾಗ ಫಿರ್ಯಾದಿ ಹಾಗೂ ಸಾಕ್ಷಿದಾರ ನಂ: 4, 5 ನೇದವರು ಪಿ.ಎಸ್.ಐ ಮೆಡಂ ರವರು ಮೇಲಾಧಿಕಾರಿಗಳ ಮಿಟಿಂಗ್‌ನಲ್ಲಿ ತೊಡಗಿದ್ದು ಸ್ವಲ್ಪ ಹೊತ್ತು ಕಾಯಿರಿ ಅಂತಾ ಅಂದಿದ್ದಕ್ಕೆ ಆರೋಪಿತನು ನಾನು ಯಾರು ಅನ್ನುವದು ನಿಮಗೆ ಗೊತ್ತಿಲ್ಲ, ಸಾವಳಗಿ ಪೊಲೀಸ ರಾಣೆ ಪೊಲೀಸರನ್ನು ಕೇಳಿ ನೋಡ್ತೀ ನಾನು ಯಾರು ಅನ್ನುವದು ಗೊತ್ತಾಗತೈತಿ ನಮ್ಮ ಗಾಡಿ ಈಗಲೆ ಬಿಡ್ತೀ ಅಂತಾ ಏರು ಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡಿ ಬೆದರಿಕೆ ಹಾಕಿ ಫಿರ್ಯಾದಿ ಹಾಗೂ ಸಾಕ್ಷಿದಾರ ನಂ: 4, 5 ರವರು ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಸರ್ಕಾರಿ ಕರ್ತವ್ಯಕ್ಕೆ ಅಡತಡೆ ಮಾಡಿದ ಅಪರಾಧ."



The issue is whether the petitioner should be tried for the offence under Section 353 of the IPC. Section 353 of the IPC reads as follows:

"353. Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 353 mandates that a public servant should be stopped from performing duties by usage of criminal force. There is no allegation in the case at hand that the petitioner indulged in assault of a public servant or used criminal force which came in the way of the public servant performing her duties.

9. The summary of the findings of the charge sheet, as also, the statement of all the witnesses are unequivocal that the only allegation against the petitioner is speaking to the 2nd respondent/complainant by raising his voice. This would, in the considered view of this Court, not meet the ingredients that are necessary for an offence to become punishable under Section



353 of the IPC. The issue need not detain this Court for long or delve deep into the matter, as the Apex Court in the case of **K DHANANJAY v. STATE OF KARNATAKA (CABINET SECRETARY)** in **SLP (CRL.) No.5905 of 2022** while considering an identical allegation has held as follows:

"....

We have now perused the copy of the complaint which was given by Respondent No. 5 – Ms. A. Thomeena, Deputy Registrar to the Inspector of Police, Ulsoor Police Station, Bangalore. The same reads as under : -

*"Sir,
Today at 3.05 PM, we had one incident in our office. One Shri Dhananjay who had been a party to the proceedings before us had filed a complaint before the Chief Information Commission seeking certain documents. The CIC vide order No.CIC/CAD/MT/A/2018/611756/SD dated 01.07.2019 and asked us to give some documents. We had kept every document ready and asked him to come and get it and inspect the document which he wanted. But apparently he wanted some other documents also which we felt had nothing to do with the order of the CIC. Therefore, being an official document, we had refused. Thereupon he started shouting and threatening us. At that time Smt. Rajashri, CPIO, Smt. Rekhashree, who is my PS, and Smt. Geetha who is an MTS were in the room. He threatening and shouted at them and disrupted the work of the office. Hearing the shouts and cries, people around gathered and I had immediately informed the police.
Kindly take necessary action."*

It is on the basis of the above complaint that an FIR has been lodged against the appellant. **However, the only allegation against the appellant in the said complaint is that he was shouting and threatening the staff. This itself will not amount to any assault.**



Assault is defined under Section 353 of the Indian Penal Code as under :-

*"**353 Assault** - Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault."*

We have reproduced the entire complaint hereinabove. On perusing the same, we find that none of the ingredients, as mentioned in Section 353 IPC, is reflected in the complaint letter. In other words, no offence under Section 353 IPC is made out in this case. The High Court, to our mind, has committed a mistake in not interfering in this case. This is a case which is nothing but an abuse of the process of law and therefore, in order to meet the ends of justice, we allow this appeal and quash the entire proceedings initiated against the appellant."

(Emphasis supplied)

The Apex Court holds that unless there is an allegation of assault or usage of criminal force against the accused, the accused cannot be tried for an offence under Section 353 of the IPC. It is an admitted fact that there is no allegation of the kind in the case at hand. What remains is Section 506 of the IPC. Even Section 506 of the IPC has its ingredients in Section 503 of the IPC, both of which read 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.

... ..

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."

None of the ingredients as obtaining in Section 503 of the IPC are even found. Therefore, the offence under Section 506 of the IPC is also not met. In that light permitting further trial



against the petitioner would become an abuse of the process of law and result in miscarriage of justice.

10. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Impugned proceedings in C.C.No.1190 of 2023 pending before the Principal Civil Judge and JMFC, Jamkhandi stands quashed *qua* the petitioner.

SD/-

JUSTICE M.NAGAPRASANNA

BKP
List No.: 39 SI No.: 5