



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 2753 OF 2024

BETWEEN:

1. SRI. SAYYAD AZAMPEER KHADRI
AGE. 55 YEARS
OCC. AGRICULTURIST
R/O. HULAGUR, TQ. SHIGGAON
DIST. HAVERI 581126

...PETITIONER

(BY SRI: V LAKSHMINARAYANA, SR COUNSEL ALONG WITH
SRI: GOVARDHAN REDDY J.S., FOR
SRI: CHAND PASHA, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA
BY POLICE SUB-INSPECTOR
HULAGUR POLICE STATION
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
DHARWAD BENCH
AT. DHARWD 583011

...RESPONDENT

(BY SMT: WAHEEDA M.M., HCGP)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.P.C.,
SEEKING TO ALLOW THE CRIMINAL PETITION FILED BY THE
PETITIONER/ACCUSED NO.2 UNDER SECTION 482 OF CR.P.C.,
AND QUASH CRIME NO.14/2024 OF HULAGUR P.S. PENDING
ON THE FILE OF THE COURT OF CIVIL JUDGE (JR.DN) AND



JMFC, SHIGGAON FOR AN OFFENCES PUNISHABLE UNDER SECTIONS 153(A), 295(A), 120(B), 290 OF IPC.

THIS CRL.P, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

The petitioner is before the Court seeking the following prayer:

"It is therefore prayed that this Hon'ble High Court be pleased to allow the criminal petition filed by the petitioner/accused No.2 under Section 482 of Cr.P.C. and quash Crime No.14/2024 of Halagur P.S., pending on the file of the Court of Civil Judge (Jr.Dn.) & JMFC, Shiggoan for an offences punishable under Sections 153(A), 295(A), 120(B), 290 of IPC, in the interest of justice and equity."

2. Heard Sri V Lakshminarayana, learned senior counsel appearing for the petitioner and Smt M M Waheeda, learned High Court Government Pleader for the respondent.

3. The petitioner is now embroiled in a crime in Crime No.14 of 2024 for offence punishable under Section 153(A), 295(A), 120(B) and 290 of the IPC.

4. Facts that leads the petitioner to the web of crime is that the respondent - complainant is said to have received an



audio message to his WhatsApp forwarded by another informant that two persons were conversing between 04.00 a.m. to 05.00 a.m. that they want to create communal provocation in the area, as in the year 2004 there was certain communal disturbance at public roads with regard to certain riots. Therefore, on receipt of the said audio message the propensity of commission of the communal riots sprang in the mind of the complainant and registered the crime in Crime No.14 of 2024.

5. The Co-ordinate Bench had granted an interim order of stay of further investigation which is in subsistence even today.

6. Sri V Lakshminarayana, learned senior counsel appearing for the petitioner would submit that none of the ingredients that are necessary to be present for the allegations to become an offence is present even to its remotest sense in the case at hand. Therefore, permitting further proceedings would run foul of plethora of judgments, is the submission of the learned senior counsel. He would particularly seek to place reliance upon the judgment of the Apex Court in the case of ***Javed Ahmad Hajam Vs State of Maharashtra and***



another¹. To buttress his submission, he contended that the ingredients of the offences alleged can be invoked only if there is conglomeration of certain number of people and not an audio message or a private telephonic conversation between two people.

7. Learned High Court Government Pleader on taking this Court through the material of investigation would contend that, if it were to be a case where only two people were conversing, it would not have become a crime. But here, the audio message on WhatsApp stood circulated. Therefore, the crime had to be registered. It is for the petitioner to come out clean in a full blown trial. Learned High Court Government Pleader would seek dismissal of the petition.

8. I have given my anxious consideration to the submissions made by the respective counsels and perused the material on record.

9. The afore-narrated facts at this juncture lie in a narrow compass. What leads the petitioner to register the crime is an audio message that springs to his phone from certain

¹ (2024) 4 SCC 156



person. The audio message is said to have been circulated. It is then the respondent - complainant registers the crime. Since the entire issue has triggered from the registration of the complaint, I deem it appropriate to notice the complaint.

10. The complaint reads as follows:

"ಗೆ

ರಾಣಾಧಿಕಾರಿಗಳು

ಹುಲಗೂರ ಪೊಲೀಸ್ ಠಾಣೆ,

ರವರಿಗೆ,

ನಾನು ಪರಶುರಾಮ ಕಟ್ಟಿಮನಿ ಪಿ.ಎಸ್.ಐ.-01 ವಯಾ- 35 ವರ್ಷ
ಉದ್ಯೋಗ- ಪಿ.ಎಸ್.ಐ. ಸಾ- ಹುಲಗೂರ ಪೊಲೀಸ್ ಠಾಣೆ. ಗಣಿಕೀಕರಿಸಿ
ನೀಡಿದ ಪಿರ್ಯಾದಿ ದಿನಾಂಕ:03/03/2024.

ನಾನು ಹುಲಗೂರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಪೊಲೀಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಅಂತಾ
ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ದಿನಾಂಕ:03-03-2024 ರಂದು ಬೆಳಗಿನ 01:00 ಗಂಟೆಗೆ
ನನ್ನ ಮೊಬೈಲ್ ನಂಬರ್ 8277984577 ನೇದ್ದರ ವಾಟ್ಸಾಪ್‌ಗೆ ಒಬ್ಬ ಬಾತ್ತಿದಾರರ
ಮೊಬೈಲ್‌ದಿಂದ ಆಡಿಯೋ ಸಂದೇಶ ಬಂದಿದ್ದು, ಸ್ವೀಕರಿಸಿಕೊಂಡು ನೋಡಲಾಗಿ
ಅದರಲ್ಲಿ, ಒಬ್ಬ ವ್ಯಕ್ತಿ ಇನ್ನೊಬ್ಬ ವ್ಯಕ್ತಿಯೊಂದಿಗೆ ಸಂಭಾಷಣೆ ಮಾಡಿದ್ದು, ಅದರಲ್ಲಿ ಸರ್
ಕಲ್ ಮೀಟಿಂಗ್ ಕರು ಸಬ್ ಜಾನೂಂಕು ಲೆಕೋ, ಸಜ್ಜು ರೆಡಿ ಕರತು ಮೈ ಬಾಕಿ ಕಿ
ಕ್ಯಾತೋ ಹುವಾತೋ ತುಮಾರಿ ಜವಾಬ್ದಾರಿ ದೆಕೊ ಕರಕೊ ಬೋಲ್ ರೈ ಸರ್
ಉನೋ, ಕ್ಯಾ ತೋ ಹುವಾ ತೊ ಹಮೀ ಹೈನಾ, ಕ್ಯಾ ಸಜ್ಜೋ ಲೇಕಾನಾ ಕ್ಯಾ, ಹಮೀ
ಕ್ಯಾತೊ ತಲವಾರ ಲೇಕೋ ಮಾರಾ ಮಾರಿ ಕರನೇಕೋ ಜಾರ್ ಕ್ಯಾ, ಓಚೆ ಮೈ ಬಾತ
ಕರ್ಯಾ, ದೋಸೌ ಚರವಾಂದಾ ಹೈ, ದೇಕೋ ಏಕ ಅರ್ಜಿ ದೇವೋ ಪೈಲಾ, ಉನಿ



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ಬೋಲ್ಕಾಸೋ ವಿಡಿಯೋ ಸುನ್ನೈಕಿ ನಹಿ ತುಮೀ, ಕೌನ ಸರ್ ಬೇವಿನಮರದ ಬೋಲ್ಕಾಸೋ, ವಿಡಿಯೋ ಸುನಾಯಾ ಮೈ, ತುಚಿ ಲಗಾಯೇಸೋ ಓ ತುಚಿ ನಿಕಾಲೋ ದೇ ಆ ಹಮನಾ ರಮಜಾನ ಆಯಾ, ಬಹುತ್ ತಕಲೀಫ್ ಹೋತಿ ಕರಕೋ ಬೋಲನೀಕಾ, ಟೀಕ್ ಹೈ ಸರ್ ಮೈ ಚರವಾಂದಾಂಕೋ ಕ್ಯಾ ಬೋಲ್ಕಾ ಸಿಸಿ ಕ್ಯಾಮರಾ ಬಂದ ಕರತು, ಹೈಸ್ ತೋ ಸಬ್ ಹೈ, ಹಮಾರೇ ಪೀಚೆ ಲೀಡರಾ ಹೈ, ಸಾಬಬ್ ತುಮಾರಾ ನಾಮ್ ಬೋಲ್ಕಾ ಸರ್ ಮೈ, ಪೈಲಾ ಉಸೇ ಅರ್ಜಿ ದೆಂಗ್ ಬಾದಮಿ ನಿಕಲನೀಕಾ ಕಾಮ್, ಹುವಾ ಲೇ ವೈಸಾಚಿ ಕರೆಂಗ್, ಪೈಲಾ ಲೆಟರ್ ದೆಂಗ್ ಸರ್, ಹೂಂ ಪೈಲಾ ಲೆಟರ್ ದೆಂಗ್, ಅಂತಾ ಇರುತ್ತದೆ. ನಂತರ ನಾನು ಈ ವಿಷಯವಾಗಿ ಬಾತ್ಮಿದಾರರಿಗೆ ಹಾಗೂ ರಾಣಿಯ ಗುಪ್ತ ಮಾಹಿತಿ ಸಿಬ್ಬಂದಿಯವರೊಂದಿಗೆ ಸದರಿ ಆಡಿಯೋ ಸಂಭಾಷಣೆಯಲ್ಲಿರುವ ವಿಷಯದ ಬಗ್ಗೆ ಚರ್ಚಿಸಿದಾಗ ಸಂಭಾಷಣಾಕಾರರು ಕಾರಡಗಿ ಗ್ರಾಮದ ಅಂಜುಮನ್ ಕಮೀಟಿಯ ಅಧ್ಯಕ್ಷ ರಬ್ಬಾನಿ ತಂದೆ ಅಬ್ದುಲಮುನಾಫ್ ಸವಣೂರ ಹಾಗೂ ಹುಲಗೂರಿನ ಮಾಜಿ ಶಾಸಕರಾದ ಶ್ರೀ ಸೈಯದ್ ಅಜಂಪೀರ್ ಖಾದಿ ರವರು ಅಂತಾ ಖಚಿತವಾಗಿದ್ದು, ಸದರಿಯವರು ನಿನ್ನೆಯ ದಿವಸ ದಿನಾಂಕ: 02-03-2024 ರಂದು ಸಾಯಂಕಾಲ 04:00 ಘಂಟೆಯಿಂದ 05:00 ಘಂಟೆಯ ನಡುವಿನ ಅವಧಿಯಲ್ಲಿ ಹುಲಗೂರ ಗ್ರಾಮದಲ್ಲಿ ಈ ಬಗ್ಗೆ ಮಾತಾನಾಡಿರುತ್ತಾರೆ ಅಂತಾ ತಿಳಿಯಿತು. ನಂತರ ಈ ವಿಷಯದ ಬಗ್ಗೆ ಪರಿಶೀಲಿಸಿದಾಗ ಕಾರಡಗಿ ಗ್ರಾಮದ ಜುಮ್ಮಾ ಮಸೀದಿ ಪಕ್ಕದ ಸರ್ಕಾರಿ ಶಾಲೆಯ ಎದುರಿಗೆ ಸಾರ್ವಜನಿಕ ರಸ್ತೆಯ ಮೇಲೆ ಒಂದು ಭಗವಾ ಧ್ವಜಾ ಇದ್ದು ಇದು ಸುಮಾರು ವರ್ಷಗಳಿಂದ ಇದ್ದು, ಈ ಧ್ವಜಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ 2004 ರಲ್ಲಿ ಗ್ರಾಮದಲ್ಲಿ ಉದ್ಘಿಗ್ನ ವಾತಾವರಣ ಉಂಟಾಗಿ ನಂತರ ರಾಜಿ ಸಂಧಾನದ ಮುಖಾಂತರ ಸಮಸ್ಯೆ ಸರಿಪಡಿಸಿರುವ ಬಗ್ಗೆ ತಿಳಿಯಿತು.

ಸದ್ಯ ಈ ಮೇಲಿನ ಆಡಿಯೋ ಸಂಭಾಷಣಾಕಾರರು ಸುಮಾರು ವರ್ಷಗಳಿಂದ ಇರುವ ಭಗವಾ ಧ್ವಜ ತೆಗೆಯುವ ವಿಷಯದ ಬಗ್ಗೆ ಚರ್ಚಿಸಿ, ಎರಡು ಕೋಮುಗಳ ಮಧ್ಯೆ ದ್ವೇಷ ವೈಮನಸ್ಸಿನ ಭಾವನೆಗಳನ್ನ ಹೆಚ್ಚಿಸಲು ಪ್ರಯತ್ನಿಸಿದ್ದು ಅಲ್ಲದೇ ಸಾರ್ವಜನಿಕ ಶಾಂತಿ ಸುವ್ಯವಸ್ಥೆಗೆ ಮತ್ತು ಸಾರ್ವಜನಿಕರಿಗೆ ಅಪಾಯ ಕಿರುಕುಳವುಂಟಾಗುವಂತೆ ಅಪರಾಧಿಕ ಒಳಸಂಚನ್ನು ರೂಪಿಸಿರುವ ಬಗ್ಗೆ ಖಚಿತವಾಗಿದ್ದು, ಈ ಬಗ್ಗೆ ಕಾನೂನು ಕ್ರಮ ಕೈಕೊಳ್ಳಲು ಕೋರಿದೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ"



11. The complaint itself narrates that two people were having private conversation and that private conversation stood recorded and became an audio message and was to be circulated. This would not become a crime as obtaining under Section 153(A) or 295(A) as is held by the Apex Court in the case of ***Javed Ahmad Hajam (supra)***.

12. The Apex Court in the case of ***Javed Ahmad Hajam (supra)***, interpreting Section 153A of the IPC has held as follows:

"....."

10. Now, coming back to Section 153-A, clause (a) of sub-section (1) of Section 153-AIPC is attracted when by words, either spoken or written or by signs or by visible representations or otherwise, an attempt is made to promote disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities. The promotion of disharmony, enmity, hatred or ill will must be on the grounds of religion, race, place of birth, residence, language, caste, community or any other analogous grounds. Clause (b) of sub-section (1) of Section 153-A IPC will apply only when an act is committed which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquillity.



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11. Now, coming to the words used by the appellant on his WhatsApp status, we may note here that the first statement is that August 5 is a Black Day for Jammu and Kashmir. 5-8-2019 is the day on which Article 370 of the Constitution of India was abrogated, and two separate Union Territories of Jammu and Kashmir were formed. Further, the appellant has posted that "Article 370 was abrogated, we are not happy". On a plain reading, the appellant intended to criticise the action of the abrogation of Article 370 of the Constitution of India. He has expressed unhappiness over the said act of abrogation. The aforesaid words do not refer to any religion, race, place of birth, residence, language, caste or community. It is a simple protest by the appellant against the decision to abrogate Article 370 of the Constitution of India and the further steps taken based on that decision. The Constitution of India, under Article 19(1)(a), guarantees freedom of speech and expression. Under the said guarantee, every citizen has the right to offer criticism of the action of abrogation of Article 370 or, for that matter, every decision of the State. He has the right to say he is unhappy with any decision of the State.

12. In Manzar Sayeed Khan [Manzar Sayeed Khan v. State of Maharashtra, (2007) 5 SCC 1 : (2007) 2 SCC (Cri) 417] , this Court has read "intention" as an essential ingredient of the said offence. The alleged objectionable words or expressions used by the appellant, on its plain reading, cannot promote disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities. The WhatsApp status of the appellant has a photograph of two barbed wires, below which it is mentioned that "AUGUST 5 — BLACK DAY — JAMMU&KASHMIR". This is an expression of his individual view and his reaction to the abrogation of Article 370 of the Constitution of India. It does not reflect any intention to do something which is prohibited under Section 153-A. At best, it is a protest, which is a part of his freedom of speech and expression guaranteed by Article 19(1)(a).



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13. Every citizen of India has a right to be critical of the action of abrogation of Article 370 and the change of status of Jammu and Kashmir. Describing the day the abrogation happened as a “Black Day” is an expression of protest and anguish. If every criticism or protest of the actions of the State is to be held as an offence under Section 153-A, democracy, which is an essential feature of the Constitution of India, will not survive.

14. The right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed under Article 19(1)(a). Every individual must respect the right of others to dissent. An opportunity to peacefully protest against the decisions of the Government is an essential part of democracy. The right to dissent in a lawful manner must be treated as a part of the right to lead a dignified and meaningful life guaranteed by Article 21. But the protest or dissent must be within four corners of the modes permissible in a democratic set up. It is subject to reasonable restrictions imposed in accordance with clause (2) of Article 19. In the present case, the appellant has not at all crossed the line.

15. The High Court has held [Javed Ahmed Hajam v. State of Maharashtra, 2023 SCC OnLine Bom 819] that the possibility of stirring up the emotions of a group of people cannot be ruled out. The appellant's college teachers, students, and parents were allegedly members of the WhatsApp group. As held by Vivian Bose, J., the effect of the words used by the appellant on his WhatsApp status will have to be judged from the standards of reasonable women and men. We cannot apply the standards of people with weak and vacillating minds. Our country has been a democratic republic for more than 75 years. The people of our country know the importance of democratic values. Therefore, it is not possible to conclude that the words will promote disharmony or feelings of enmity, hatred or ill will between different religious groups. The test to be



applied is not the effect of the words on some individuals with weak minds or who see a danger in every hostile point of view. The test is of the general impact of the utterances on reasonable people who are significant in numbers. Merely because a few individuals may develop hatred or ill will, it will not be sufficient to attract clause (a) of sub-section (1) of Section 153-AIPC.

16. As regards the picture containing "Chand" and below that the words "14th August-Happy Independence Day Pakistan", we are of the view that it will not attract clause (a) of sub-section (1) of Section 153-AIPC. Every citizen has the right to extend good wishes to the citizens of the other countries on their respective Independence Days. If a citizen of India extends good wishes to the citizens of Pakistan on 14th August, which is their Independence Day, there is nothing wrong with it. It is a gesture of goodwill. In such a case, it cannot be said that such acts will tend to create disharmony or feelings of enmity, hatred or ill will between different religious groups. Motives cannot be attributed to the appellant only because he belongs to a particular religion.

17. Now, the time has come to enlighten and educate our police machinery on the concept of freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution and the extent of reasonable restraint on their free speech and expression. They must be sensitised about the democratic values enshrined in our Constitution.

18. For the same reasons, clause (b) of sub-section (1) of Section 153-AIPC will not be attracted as what is depicted on the WhatsApp status of the appellant cannot be said to be prejudicial to the maintenance of harmony among various groups as stated therein. Thus, continuation of the prosecution of the appellant for the offence punishable under Section 153-A IPC will be a gross abuse of the process of law."

(Emphasis supplied)



13. In the light of admitted facts as narrated hereinabove, permitting investigation even in the case at hand would run foul of the elucidation of the Apex Court and lead the investigation to become a gross abuse of the process of law and result in patent injustice. I, therefore, deem it appropriate to exercise my jurisdiction under Section 482 of the Cr.P.C. and obliterate the crime.

14. For the aforesaid reasons, the following:

ORDER

- i) The Criminal Petition is ***allowed.***
- ii) FIR in Crime No.14 of 2024 registered by Hulagur Police Station, pending on the file of Court of Civil Judge (Jr.Dn.) and JMFC, Shiggoan, stands quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

BGN
List No.: 2 Sl No.: 1