



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 25591 OF 2023 (GM-RES)

BETWEEN:

1. SRI KEERTHAN KUMAR
S/O DHARMAPALA GOWDA,
AGED ABOUT 28 YEARS,
RESIDING AT SODLU MANE,
BILINELI VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA – 574 221.
2. SRI SACHIN KUMAR N.M.,
S/O MEDAPPA GOWDA,
AGED ABOUT 26 YEARS,
RESIDING AT NADTHODU MANE,
BILINELI VILLAGE,
KADABA TALUK,
DAKSHINA KANNADA – 574 221.

...PETITIONERS

(BY SRI SACHIN B.S., ADVOCATE)

AND:

1. STATE OF KARNATAKA
KADABA POLICE STATION,
KADABA TALUK,
DAKSHINA KANNADA – 574 221
BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,





BENGALURU – 560 001.

...RESPONDENTS

(BY SMT.SOWMYA R, HCGP FOR R-1;
R-2 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA AND READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIR IN CRIME NO.86 OF 2023 VIDE ANNEX-C AND ENTIRE PROCEEDINGS THE FILE OF 2023 ON THE FILE OF THE II ADDITIONAL CIVIL JUDGE AND JMFC, PUTTUR, DAKSHINA KANNADA, REGISTERED FOR THE OFFENCES PUNISHABLE U/S 447, 295(A), 505, 506, 34 OF IPC AS PER ANNEXURE-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioners/accused 1 and 2 are before this Court calling in question a crime in crime No.86 of 2023 registered for



offences punishable under Sections 447, 295A, 505, 506 and 34 of the IPC and pending before the II Additional Civil Judge & JMFC, Puttur, Dakshina Kannada District.

2. Heard Sri B.S. Sachin, learned counsel appearing for the petitioners and Smt. R. Sowmya, learned High Court Government Pleader for respondent No.1. Respondent No.2 though served a year ago, has remained unrepresented even today.

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

Based upon an incident that took place on 24-09-2023, a complaint comes to be registered by the 2nd respondent before the Station House Officer, Kadaba Police Station, Puttur Circle. The allegation of the 2nd respondent is that at about 10.50 p.m. on 24-09-2023 some unknown persons barged into the Masjid and shouted slogans saying 'Jai Sriram' and alleged to have threatened that they will not leave the community. On the next day i.e., on 25-09-2023 comes the complaint which becomes a crime. It is the complaint that on checking the CCTV installed in the Masjid it was seen that one unknown car and some unknown persons in the bike were moving here and



there around the Masjid. Accordingly, the complaint comes to be registered. The complaint named unknown persons, but while conducting investigation, these petitioners are drawn as accused 1 and 2. The registration of crime is what has driven the petitioners to this Court in the subject petition.

4. The learned counsel for the petitioners would vehemently contend that none of the ingredients that are necessary for the aforesaid allegations are even present in the case at hand. The offence, at the outset, is under Section 447 of the IPC which deals with criminal trespass. It is his submission that a Masjid is a public place. Entry into it cannot mean a criminal trespass. The other offences are under Sections 295A, 505 and 506 of the IPC. Even those ingredients are not present in the case at hand is his submission.

5. The learned High Court Government Pleader would refute the submissions to contend that the petitioners cannot enter into the Masjid and shout 'Jai Sriram' or threaten the muthavalli. It is, therefore, the matter requires investigation in the least and would seek dismissal of the petition.



6. The afore-narrated incident is said to have happened on 24-09-2023. A complaint comes to be registered by one C.M. Hyder Ali/2nd respondent. The complaint reads as follows:

“ರಿಗೆ,

ಮಾನ್ಯ ಪೊಲೀಸ್ ಉಪನಿರೀಕ್ಷಕರು,
ಕಡಬ ಪೊಲೀಸ್ ಠಾಣೆ, ಕಡಬ
ದ.ಕ.ಜಿಲ್ಲೆ.

ರಿಂದ,

ಹೈದರ್ ಅಲಿ ಸಿ ಎಮ್ (33)
ತಂದೆ ಉಮ್ಮರ್, ವಾಸ: ಮರುವಂತಿಲ ಮನೆ,
ಬಂಟ್ಲೆ ಗ್ರಾಮ, ಕಡಬ ತಾಲೂಕು,
ಪೋನ್:9008140759.

ಮಾನ್ಯರೇ

ವಿಷಯ: ಯಾರೋ ಅಪರಿಚಿತರು ನಮ್ಮ ಮನೀಡಿಯ ಆವರಣಕ್ಕೆ ಅಕ್ರಮವಾಗಿ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಂ ಎಂದು ಕೂಗಿ ಜೀವ ಬೆದರಿಕೆಯೊಡ್ಡಿದ ಬಗ್ಗೆ.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮ್ಮಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಕಡಬ ತಾಲೂಕು ಐತ್ತೂರು ಗ್ರಾಮದ ಮರ್ಧಾಳ ಎಂಬಲ್ಲಿರುವ ಬದ್ರಿಯಾ ಜುಮ್ಮಾ ಮಸೀದಿಯ ಕಡಬ-ಮರ್ಧಾಳ ರಸ್ತೆಯ ಮರ್ಧಾಳ ಜಂಕ್ಷನ್ ನಲ್ಲಿರುತ್ತದೆ. ನಮ್ಮ ಮಸೀದಿಗೆ ಆವರಣ ಗೋಡೆ ಮತ್ತು ಗೇಟ್ ಇರುತ್ತದೆ. ಹೀಗಿರುವಾಗ ಈ ದಿನ ದಿನಾಂಕ:24.09.2023 ರಂದು ರಾತ್ರಿ ಸುಮಾರು 10.50 ರ ಸಮಯಕ್ಕೆ, ನಮ್ಮ ಮಸೀದಿಯ ಕಂಪೌಂಡಿನೊಳಗೆ ಯಾರೋ ಅಪರಿಚಿತರು ಬಂದು ಅಕ್ರಮವಾಗಿ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಂ ಎಂಬ ಘೋಷಣೆಯನ್ನು ಕೂಗಿ ಬ್ಯಾರಿಗಳನ್ನು ಬದುಕಲು ಬಿಡಲಾರವು ಎಂದು ಬೊಬ್ಬೆ ಇಟ್ಟರು. ಇವರ ಬೊಬ್ಬೆಯನ್ನು ಕೇಳಿ ಆ ಸಮಯ ಕಛೇರಿಯ ಒಳಗಿದ್ದ ನಾನು ಮತ್ತು ನಮ್ಮ ಮಸೀದಿಯ ಧಾರ್ಮಿಕ ಗುರುಗಳಾದ ನೌಷಾದ್ ಸಖಾಫಿ ಉಸ್ತಾದರು ಹೊರ ಬಂದು ನೋಡಿದಾಗ ನಮ್ಮನ್ನು ನೋಡಿ ದ್ವಿಚಕ್ರ ವಾಹನದಲ್ಲಿ ಇಬ್ಬರು ಅಪರಿಚಿತರು ನಮ್ಮ ಮಸೀದಿಯ ಆವರಣದಿಂದ ಹೊರ ಹೋದರು. 'ನಂತರ ನಾನು ನಮ್ಮ ಮಸೀದಿಯ ಸಿಸಿ ಟಿವಿ ಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ನಮ್ಮ ಮಸೀದಿಯ ಎದುರುಗಡೆ ಒಂದು ಡಸ್ಪರ್ ಕಾರೊಂದು ಅನುಮಾನಾಸ್ಪದವಾಗಿ ಸಂಚರಿಸುತ್ತಾ, ನಮ್ಮ ಮಸೀದಿ ಮುಂಭಾಗದ ರಸ್ತೆಯಲ್ಲಿ ತೀರುಗಾಡುತ್ತಿತ್ತು. ಅದೇ ಸಮಯ ನಮ್ಮ ಮಸೀದಿಯ ಆವರಣಕ್ಕೆ ಯಾರೋ ಅಪರಿಚಿತರು ದ್ವಿಚಕ್ರ ವಾಹನದಲ್ಲಿ ಬಂದು ಹೋಗುವುದು ಕಂಡು ಬರುತ್ತಿತ್ತು. ಆದುದರಿಂದ ತಮ್ಮಲ್ಲಿ



ಕೆಳಕೊಳ್ಳುವುದೇನೆಂದರೆ ನಮ್ಮ ಊರಿನಲ್ಲಿ ಹಿಂದೂ-ಮುಸಲ್ಮಾನರು ಬಹಳ ಸೌಹಾರ್ದತೆಯಿಂದ ವಾಸಿಸುತ್ತಿದ್ದು ಇದನ್ನು ಸಹಿಸದ ಯಾರೋ ತಿಡಿಗೇಡಿಗಳು ಅಕ್ರಮ ಕೂಟ ನೇರಿ ಶ್ರೀಮಿನಲ್ ಸಂಚು ರೂಪಿಸುವ ರೀತಿಯ ಕೃತ್ಯವನ್ನು ಎಸಗಿ ನಾಡಿನಲ್ಲಿ ಕೋಮು ಧ್ವೇಷವನ್ನು ಉಂಟುಮಾಡಲು ಹಾಗೂ ಕೋಮು ಗಲಭೆಯನ್ನು ಸೃಷ್ಟಿಸಲು ಈ ರೀತಿಯ ಕೃತ್ಯವನ್ನು ನಡೆಸಿದ್ದಾಗಿರುತ್ತದೆ. ಅದುದರಿಂದ ಮನೀಡಿಯ ಒಳಗೆ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಂ ಎಂದು ಕೂಗಿದ ಅಪರಿಚಿತರನ್ನು ಪತ್ತೆ ಹಚ್ಚಿ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರಿಕೆ.

ಸ್ಥಳ: ಮಧುರಾಳ
ದಿನಾಂಕ:24.09.2023

ಇತೀ ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-

ಈ ಪರ್ಯಾಯವನ್ನು ಈ ದಿನ ದಿನಾಂಕ:25/09/2023 ರಂದು ರಾತ್ರಿ 1-00 ಗಂಟೆಗೆ ತಾಣೆಯಲ್ಲಿ ಸ್ವೀಕರಿಸಿಕೊಂಡು ದೂರಿಸ ಆಧಾರದಲ್ಲಿ ಕಡಬ ತಾಣಾ ಅ.ಕ್ರ.:86/2023 ಕಲಂ:447, 295(A), 505. R/w 34 IPC ಯಂತೆ ಪ್ರಕರಣ ವಾಖಲಿಸಿಕೊಂಡೆನು.”

The complaint is that on the night of 24-09-2023 some unknown persons entered the mosque and shouted the slogan 'Jai Sriram' and said to have threatened that they will not leave the community and thereafter are said to have ran away from the spot. The complaint also narrates that Hindus and Muslims in the jurisdiction of Kadaba Police Station are living in great harmony and these persons who have shouted 'Jai Sriram' are creating a rift between the communities. Therefore, the crime is registered. It becomes germane to notice the offences so laid against the petitioners. The offence punishable under Section 295A of the IPC reads as follows:



“295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.— Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Section 295A deals with deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. It is understandable as to how if someone shouts ‘Jai Sriram’ it would outrage the religious feeling of any class. When the complainant himself states that Hindu – Muslims are living in harmony in the area the incident by no stretch of imagination can result in antimony. Here it becomes apposite to refer to the judgment of the Apex Court in the case of **MAHENDRA SINGH DHONI v. YERRAGUNTLA SHYAMSUNDAR¹**, wherein it is held as follows:

“....

6. *On a perusal of the aforesaid passages, it is clear as crystal that Section 295-A does not stipulate everything to be penalised and any and every act would tantamount to insult or attempt to insult the religion or the religious beliefs of a class of citizens. It penalises only those acts of insults to or those varieties of attempts to insult the religion or religious belief of a class of citizens*

¹ (2017) 7 SCC 760



which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. The Constitution Bench has further clarified that the said provision only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Emphasis has been laid on the calculated tendency of the said aggravated form of insult and also to disrupt the public order to invite the penalty.

... ..

9. *To satisfy ourselves, we have bestowed our anxious consideration and scrutinised the allegations made in the complaint petition and we have no hesitation in holding that the allegations remotely do not satisfy the essential ingredients of the offence and, therefore, applying the principle stated in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , we quash the complaint proceedings initiated against the petitioner.*

... ..

12. *In the case at hand, as the complaint is quashed, needless to say, for the reasons for which the complaint is quashed shall squarely apply to the co-accused, who is the Editor of the magazine. Therefore, we apply the same principle and quash the complaint even against the co-accused. We may hasten to clarify that we have passed the order of quashment keeping in view the criminal miscellaneous petition filed in this case for quashing and also not to allow more space for abuse of the process of the Court."*

The Apex Court holds that any and every act will not become an offence under Section 295A of the IPC. The acts that have no effect on bringing out peace or destruction of public order will not lead to an offence under Section 295A of the IPC.



7. The other offence is under Section 505 of the IPC. Section 505 makes an offence for a person who makes a statement which results in inducing or conducting public mischief. There is no allegation that the incident alleged has caused public mischief or any rift. The other offence is Section 506 of the IPC. The complaint itself narrates that the complainant has not even seen who is the one who is alleged to have committed offence of criminal intimidation attracting ingredients of Section 506 of the IPC. Section 506 has its ingredients in Section 503. The two 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.*

... ..

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."

The complaint nowhere even remotely touches upon the ingredients of Section 503 or Section 447 of the IPC. Finding no ingredients of any of the offences so alleged, permitting further proceedings against these petitioners would become an abuse of the process of law and result in miscarriage of justice.

8. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petition is allowed.
- (ii) Entire proceedings in Crime No.86 of 2023 pending before the II Additional Civil Judge & JMFC, Puttur, Dakshina Kannada stand quashed.

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

BKP