HC-KAR

NC: 2026:KHC:47735
WP No. 24177 of 2026

CNR: KAHC010533562026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

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BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 24177 OF 2026 (GM-RES)

BETWEEN:

ABHAY SHEE
AGED ABOUT 22 YEARS,
RESIDING AT NO.558,
SAIDULAJAB,
POST OFFICE MEHRAULI,
SOUTH DELHI – 110 030.

...PETITIONER

(BY SRI UDAY SHANKAR M., ADVOCATE)

AND:

Digitally signed by CHETAN B C
Location: High Court of Karnataka

1. STATE OF KARNATAKA THROUGH
THE STATION HOUSE OFFICER,
CYBER CRIME POLICE STATION,
BENGALURU CITY, KARNATAKA.
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

2. SRI SUBBARAO
POLICE SUB-INSPECTOR,

HC-KAR
NC: 2026:KHC:47735
WP No. 24177 of 2026
CNR: KAHC010533562026

CYBER CRIME POLICE STATION,
BENGALURU CITY,
KARNATAKA.

…RESPONDENTS

(BY SMT.WAHEEDA M.M., HCGP FOR R-1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., / SECTION 528 OF BNSS, PRAYING TO QUASH FIR NO.66/2025 (CR. NO.66/2025) REGISTERED BY THE CYBER CRIME POLICE STATION, BENGALURU CITY FOR THE OFFENCE UNDER SECTION 66-F OF THE INFORMATION TECHNOLOGY ACT, 2000, AND QUASH THE CHARGE SHEET IN C.C.NO. 41074/2026 PENDING ON THE FILE OF THE HON'BLE 45TH ADDITIONAL CHIEF JUDICIAL MAGISTRATE, BENGALURU, INSOFAR AS THE PETITIONER IS CONCERNED, IN EXERCISE OF THE INHERENT JURISDICTION OF THIS HON'BLE COURT VIDE ANNEXURE-B AND C.

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

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

ORAL ORDER

The petitioner is before the Court calling in question the in C.C.No.41074/2026, pending before the 45th Additional Chief Judicial Magistrate, Bengaluru, registered for the offences punishable under Section 351(4) of the BNS and Section 66D of the Information Technology Act, 2000 (hereinafter referred to as 'the Act' for short).

2. Heard Sri Uday Shankar M., learned counsel for the petitioner and Smt. Waheeda M.M., learned counsel for the respondents.

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

3.1. The petitioner is accused No.1 and respondent No.2, the Sub-Inspector of Police attached to the Cyber Crime Police Station, is the complainant. The genesis of the prosecution lies in an incident that is alleged to have occurred on 30.11.2025. On the said date, certain electronic mails, ominous in their tenor and alarming in their contents, are said to have landed in the electronic mailbox of the Commissioner of Police, Bengaluru City. The mails carried threats of bomb blasts at the Kempegowda International Airport and several shopping malls situated within the city of Bengaluru. The threats, by their very nature, were sufficient to send alarm bells ringing across the law enforcement machinery, as they concerned not merely the security of public establishments but the safety of innumerable citizens frequenting such places.

3.2. The information was immediately transmitted to the authorities concerned, setting the investigative machinery into motion. During the course of investigation, it is alleged to have emerged that the threatening electronic mails had emanated from an email account attributable to the petitioner. This discovery became the fulcrum of registration of Crime No.66 of 2025, initially invoking Section 66F of the Information Technology Act, 2000 ('the Act' for short), which deals with the grave offence of cyber terrorism. The investigation, however, appears to have taken a different course. Though the crime was initially registered for the offence of cyber terrorism, the Investigating Officer, upon completion of investigation, chose not to carry forward the said offence against the petitioner. The allegation concerning the transmission of threatening electronic mails nevertheless survived, culminating in the filing of a charge sheet for offences punishable under Section 351(4) of the Bharatiya Nyaya Sanhita, 2023 ('the BNS' for short) and Section 66D of the Act. It is the filing of the said charge sheet and the consequential continuation of criminal proceedings that

have driven the petitioner to the portals of this Court, seeking obliteration of the proceedings instituted against him.

4. Learned counsel appearing for the petitioner would project a solitary, yet according to him, formidable circumstance in support of the prayer for quashment. His submission is that the very foundation upon which the prosecution rests is rendered doubtful by the fact that the internet connection available to the petitioner was not functional on the date of the alleged incident. Drawing the attention of this Court to the documents appended to the petition, learned counsel would endeavour to demonstrate that the internet connectivity to the computer of the petitioner had become defunct on 30.11.2025, the very date on which the threatening electronic mails are alleged to have been transmitted.

5. He would contend that when the means of electronic communication itself stood disabled, the allegation that the petitioner had transmitted threatening electronic mails to the Office of the Commissioner of Police becomes inherently improbable. It is his submission that the petitioner could not

have authored and transmitted the alleged communications invoking the name of the proscribed terrorist organisation, Jaish-e-Mohammed, and threatening to unleash bomb blasts at several prominent locations in the city of Bengaluru, when the internet facility available to him was allegedly inoperative. On this premise, learned counsel would urge that permitting the prosecution to continue would amount to compelling the petitioner to undergo the rigours of a criminal trial notwithstanding the material which, according to him, strikes at the very root of the prosecution case. He would, therefore, seek quashment of the proceedings.

6. *Per contra*, learned High Court Government Pleader appearing for the respondents would vehemently refute the submissions advanced on behalf of the petitioner. She would contend that the investigating agency, after undertaking investigation into the threatening electronic communications, has collected material which, in its assessment, warrants prosecution of the petitioner for offences punishable under Section 351(4) of the BNS and Section 66D of the Act. The mere circumstance that Section 66F of the Act, which deals

with cyber terrorism, has not been invoked in the charge sheet, according to her, would neither efface the allegations nor render the remaining offences incapable of trial.

6.1. She would further submit that the deletion of the offence under Section 66F of the Act at the stage of filing of the charge sheet does not necessarily foreclose its invocation at a subsequent stage, should legally admissible material emerge and the circumstances so warrant, subject, of course, to the procedure known to law. The contention regarding the alleged non-functioning of the internet connection, she would submit, is essentially a matter of defence, the veracity and evidentiary worth of which cannot be conclusively adjudicated in proceedings seeking quashment of the prosecution.

6.2. The learned High Court Government Pleader would emphasise that the allegations concern threats of bomb blasts at an international airport and public establishments frequented by thousands of citizens, and that such allegations cannot be trivialised merely on the strength of a disputed factual assertion regarding internet connectivity. Whether the threatening electronic mails were indeed generated or transmitted by the

petitioner, whether the electronic trail establishes his involvement, and whether the defence now projected is sufficient to dislodge the prosecution case are, according to her, matters which must necessarily be tested in a full-fledged trial. She would, therefore, submit that the petitioner must face the trial and establish his innocence in accordance with law, and would seek dismissal of the petition.

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

8. The afore-narrated facts, dates and the links in the chain of events are borne out by the records and would scarcely require any elaborate reiteration. What, however, assumes significance is the genesis of the alleged act and the circumstances that culminated in registration of the crime. The petitioner is alleged to have been embroiled in certain disputes with his friends on online platforms, resulting in exchange of electronic communications during the month of October 2025. What seemingly commenced as an interpersonal discord in the

virtual world is alleged to have assumed an altogether sinister dimension in the succeeding month.

9. On 30.11.2025, an electronic mail is said to have been transmitted to the Office of the Commissioner of Police, Bengaluru City, proclaiming that several prominent and densely frequented locations in the city would be subjected to bomb blasts. The communication purported to emanate from the proscribed terrorist organisation, *Jaish-e-Mohammed*. It identified the Kempegowda International Airport and several shopping malls as the intended targets, specified the time at which the explosions would allegedly commence, and went a step further by furnishing a mobile number with an invitation to make payment to avert the threatened catastrophe. **A communication of this nature, bearing the name of a terrorist organisation, identifying public places as targets and holding out the spectre of imminent destruction, could hardly have been treated as an innocuous electronic message. It was a threat calculated, on its face, to instill fear, unsettle public tranquility and compel the law enforcement machinery**

to respond with utmost urgency. It is this communication that became the fulcrum of the complaint registered on 30.11.2025. The complaint reads as follows:

9.1. The complaint reads as follows:

"ರವರಿಗೆ: ದಿನಾಂಕ. 30.11.2025
ಪೊಲೀಸ್‌ಇನ್ಸ್‌ಪೆಕ್ಟರ್,
ಸೈಬರ್‌ಕ್ರೈಂ ಪೊಲೀಸ್‌ಠಾಣೆ, ಬೆಂಗಳೂರು ನಗರ.

ಇಂದ,

ಸುಬ್ಬುರಾವ್
ಪೊಲೀಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಸೈಬರ್‌ಕ್ರೈಂ ಪೊಲೀಸ್‌ಠಾಣೆ,
ಬೆಂಗಳೂರು ನಗರ.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಮೋಹಿತ್ ಕುಮಾರ್ ಎಂಬುವವರು ಬಾಂಬ್ ಬೆದರಿಕೆ ಇ-ಮೇಲ್ ಮಾಡಿರುವ ಬಗ್ಗೆ.

*****

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಯಾರೋ ಅಪರಿಚಿತ ವ್ಯಕ್ತಿಗಳು ದಿನಾಂಕ:30.11.2025 ರಂದು ಬೆಳಿಗ್ಗೆ 11.53 ಕ್ಕೆ ಮೋಹಿತ್ ಕುಮಾರ್ <mohit kumar.er989799@gmail.com > ಈ ಇ-ಮೇಲ್ ಐಡಿ ಯಿಂದ This is a warning from the Jaish-e-Mohammed White collar terror team, we targeted Kempegowda International Airport Bengaluru, Orion mall, Lulu Mall, Forum South mall, Mantri Square Mall, Lulu Mall for bomb blast at 7pm onwards. Thanks to our allah and our master mohit to serve better to our nation.

+91 9368318077 call us if you want to pay and not let this happen. ಎಂಬ ಬಾಂಬ್ ಬೆದರಿಕೆ ಇ-ಮೇಲ್ ಸಂದೇಶವನ್ನು **COMPOL Bengaluru city <compolbcp@ksp.gov.in>** ರವರಿಗೆ ಕಳುಹಿಸಿರುತ್ತಾರೆ. ಈ ರೀತಿ ಇ-ಮೇಲ್ ಮಾಡಿರುವರ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ನೀಡಿರುವ ದೂರು ಇತ್ಯಾದಿ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸಿ,
ಸಹಿ/-"

9.2. The complaint set the criminal law in motion and resulted in registration of Crime No.66 of 2025, initially for the offence punishable under Section 66F of the Information Technology Act, 2000, which deals with cyber terrorism. The investigating agency thereafter embarked upon investigation and file a charge sheet . The summary of the charge sheet as obtaining in column No.17 reads as follows:

"17. **ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ**

ಎ -1 ಆರೋಪಿಯು ದಿನಾಂಕ30-11-2025 ರಂದು ಬೆಳಗ್ಗೆ 11-52 ಗಂಟೆಗೆ ಈ ಮೇಲ್ <mohitkumar.er989799@gmail.com> ಐಡಿಯಿಂದ COMPOL Bengaluru city<compolbcp@ksp.gov.in> ಈ ಮೇಲ್ ಐಡಿಗೆ This is a warning from the Jaish-e-Mohammed White collar terror team, we targeted Kempegowda International Airport Bengaluru, Orion mall, Lulu Mall, Forum South mall, Mantri Square Mall, Lulu Mall for bomb blast at 7pm onwards. Thanks to our allah and our master mohit to serve better to our nation. +91 9368318077 call us if you

want to pay and not let this happen. ಎಂಬ ಬಾಂಬ್ ಬೆದರಿಕೆಯ ಸಂದೇಶವನ್ನು ಕಳುಹಿಸಿದ್ದು ಪ್ರಕರಣದ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಎ1 ಆರೋಪಿಯನ್ನು ದಿನಾಂಕ 08-12-2025 ರಂದು ದೆಹಲಿ ರಾಜ್ಯದ ಕ್ರೈಂ ಬ್ರಾಂಚ್ ಪೊಲೀಸ್ ಠಾಣೆ ಮೊ.ಸಂಖ್ಯೆ 353/2025 ಪ್ರಕರಣದಲ್ಲಿ ದಸ್ತಗಿರಿ ಮಾಡಿ ನ್ಯಾಯಾಂಗ ಬಂಧನಕ್ಕೆ ಒಪ್ಪಿಸಿದ್ದು ನ್ಯಾಯಾಂಗ ಬಂಧನದಲ್ಲಿರುವ ಆರೋಪಿಯಾದ ಅಭಯ್ ಸೀ ಈತನನ್ನು ಪೊಲೀಸ್ ಬಂಧನಕ್ಕೆ ಪಡೆಯುವ ಸಲುವಾಗಿ ದಿನಾಂಕ 12-12-2025 ರಂದು ಮಾನ್ಯ 45ನೇ ಎ.ಸಿ.ಜೆ.ಎಂ ನ್ಯಾಯಾಲಯದಲ್ಲಿ, ಬಾಡಿವಾರೆಂಟ್ ಮತ್ತು ಎಸ್ಕಾರ್ಟ್ ಮೆಮೋ ನೀಡುವಂತೆ ಕೋರಿದ್ದು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಬಾಡಿವಾರೆಂಟ್ ಮತ್ತು ಎಸ್ಕಾರ್ಟ್ ಮೆಮೋವನ್ನು ಹೊರಡಿಸಿದ್ದು ಸದರಿ ಬಾಡಿವಾರೆಂಟ್ ಅನ್ನು ದೆಹಲಿ ರಾಜ್ಯದ ತಿಹಾರ್ ಜೈಲ್ಗೆ ದಿನಾಂಕ 16-12-2025 ರಂದು ಮಾನ್ಯ 45ನೇ ಎ.ಸಿ.ಜೆ.ಎಂ ನ್ಯಾಯಾಲಯದಿಂದ ಹೊರಡಿಸಿದ್ದ ಬಾಡಿವಾರೆಂಟ್ನ-ಜಾರಿ ಮಾಡಿದ್ದು ಆರೋಪಿಯನ್ನು ಮಾನ್ಯ 45ನೇ ಎ.ಸಿ.ಜೆ.ಎಂ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರು ಪಡಿಸಲು ಎಸ್ಕಾರ್ಟ್ ಮೆಮೋ ಮತ್ತು ಸ್ಥಳೀಯ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಅನುಮತಿ ಕೋರಿದ್ದು ಅಭಯ್ ಸೀ ಈತನನ್ನು ಖುದ್ದು ಜೈಲಿ ಅಧಿಕಾರಿ ಮತ್ತು ಸಿಬ್ಬಂದಿಯವರು ಹಾಜರು ಪಡಿಸುವುದಾಗಿ ಸೂಚಿಸಿರುತ್ತಾರೆ. ದಿನಾಂಕ 12-12-2025 ಪ್ರಕರಣದ ಪ್ರಮುಖ ಸಾಕ್ಷಿ-2 ರವರ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ.

ದಿನಾಂಕ 20-03-2026 ರಂದು ದೆಹಲಿಯ ತಿಹಾರ್ ಜೈಲ್ನ ಅಧಿಕಾರಿ ಮತ್ತು ಸಿಬ್ಬಂದಿಯವರು ಆರೋಪಿ ಅಭಯ್ ಸೀ ಈತನನ್ನು ಮಾನ್ಯ 45ನೇ ಎ.ಸಿ.ಜೆ.ಎಂ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರು ಪಡಿಸಿದ್ದು ಆರೋಪಿಯನ್ನು ಪೊಲೀಸ್ ಬಂಧನಕ್ಕೆ ಪಡೆದುಕೊಂಡು ತನಿಖೆ ಮುಂದುವರೆಸಿದ್ದು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಆರೋಪಿ ಅಭಯ್ ಸೀ ಈತನು ಸಾಕ್ಷಿ-2 ರವರನ್ನು ಪ್ರಕರಣದಲ್ಲಿ ಸಿಲುಕಿಸುವ ಸಲುವಾಗಿ ಸಾಕ್ಷಿ-2 ರವರ ಹೆಸರಿನಲ್ಲಿ 1] **mohit.kumar.er9897@tutamail.com,** 2] **mohit.kumar.er9897@outlook.com,** 3] **lighterlamp515@gmail.com** 4] **mohit.kumar.er989799@outlook.com** 5] **mohit.kumar.er989799@gmail.com** ಮೇಲ್ ಐಡಿಗಳನ್ನು ಹೊಸದಾಗಿ ಸೃಷ್ಟಿಸಿ ಸಾಕ್ಷಿ-2 ರವರ ಮೂಲ ಮೇಲ್ ಐಡಿ ಮತ್ತು ಮೊಬೈಲ್ ನಂಬರ್ ಅನ್ನು ಬಳಸಿ ಕೊಂಡು **<mohitkumar.er989799@gmail.com>** ಐಡಿಯಿಂದ **<compolbcp@ksp.gov.in>** ಈ ಮೇಲ್ ಐಡಿಗೆ **This is a warning from the Jaish-e-Mohammed White collar terror team, we targeted Kempegowda International Airport Bengaluru,**

Orion mall, Lulu Mali, Forum South mall, Mantri Square Mall, Lulu Mall for bomb blast at 7pm onwards. Thanks to our allah and our master mohit to serve better to our nation. +91 9368318077 call us if you want to pay and not let this happen. ಎಂಬ ಬಾಂಬ್ ಬೆದರಿಕೆಯ ಸಂದೇಶವನ್ನು ಆರೋಪಿ ಅಭಯ್ ಸೀ ಈತನು ಕಳುಹಿಸಿರುವುದು ತನಿಖೆಯಿಂದ ಧೃಢ ಪಟ್ಟಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಆರೋಪಿಯ ವಿರುದ್ಧ ಕಲಂ 66(ಡಿ) ಐಟಿ ಆಕ್ಟ್ ಮತ್ತು, ಕಲಂ 351(4) ಬಿಎನ್ಎಸ್-2023 ಅಡಿಯಲ್ಲಿ ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತದೆ.

ಎ1 ಆರೋಪಿಯು ಯಾವುದೇ ಭಯೋತ್ಪಾದನೆ ಕೃತ್ಯವೆಸಗುವ ಉದ್ದೇಶವಿಲ್ಲದ ಕಾರಣ ಆರೋಪಿಯು ಸಾಕ್ಷಿ-2 ರವರನ್ನು ಪ್ರಕರಣದಲ್ಲಿ ಸಿಲುಕಿಸುವ ಉದ್ದೇಶದಿಂದ ಮಾಡಿರುವ ಕೃತ್ಯವಾಗಿರುವುದರಿಂದ ಕಲಂ 66(ಎಫ್) ಐಟಿ ಆಕ್ಟ್ ಅನ್ನು ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯಿಂದ ಕೈ ಬಿಟ್ಟಿರುತ್ತದೆ."

(Emphasis added at each instance)

A conjoint reading of the complaint and the summary of the charge sheet would reveal a disturbing sequence of events. What is alleged is not merely the dispatch of an electronic mail containing an empty threat. The prosecution projects a deliberate act of creating electronic identities in the name of another, employing those identities to transmit threats of bomb blasts, invoking the name of a proscribed terrorist organisation and thereby setting in motion the machinery entrusted with the maintenance of public safety and security. The alleged object of implicating another person does not, by itself, render the

conduct any less serious. **A false threat of terrorism is not rendered innocuous merely because the person issuing it never intended to execute the threatened act.**

10. The gravity of such conduct lies not merely in the possibility of the threatened event materialising, but also in the fear that the threat is capable of generating, the disruption it may occasion and the diversion of public resources that its verification inevitably entails. A threat of this nature compels the State to act, for the law enforcement machinery cannot afford the luxury of presuming that a threat to public safety is a hoax. It must proceed on the side of caution, lest indifference to a genuine warning culminate in consequences too grave to contemplate.

11. The allegations, therefore, cannot be viewed through the narrow prism of a private dispute between individuals. The alleged conduct, though said to have originated in personal animosity, travelled far beyond the confines of that animosity and entered the realm of public safety. The material collected during investigation, at this stage, furnishes a prima facie

foundation for examining the offences alleged in the charge sheet, subject necessarily to satisfaction of their respective statutory ingredients.

12. It becomes apposite to notice Section 351(4) of the BNS and Section 66D of the Act. Section 351(4) of the BNS reads as follows:

> **"Section 351 – Criminal Intimidation:**
>
> **.... ....**
>
> **(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)."**

12.1. Section 66D of the Act reads as follows:

> **"<u>66-D. Punishment for cheating by personation by using computer resource</u>.—Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees."**

Section 351(4) of the BNS deals with an aggravated form of criminal intimidation, where the threat is conveyed through an anonymous communication or where the person issuing the threat has taken precautions to conceal his name or abode. The provision must be read in conjunction with the substantive ingredients of criminal intimidation under Section 351(1). The anonymity or concealment contemplated under sub-section (4) does not constitute an offence divorced from criminal intimidation; it is an additional circumstance that attracts the enhanced punishment contemplated by the provision.

12.2. Section 66D of the Act, on the other hand, deals with cheating by personation through a communication device or computer resource. The provision is directed against the misuse of electronic technology to assume the identity of another and thereby commit cheating by personation. The employment of a computer resource or electronic communication is the medium through which the offence is committed; personation and the ingredients of cheating remain indispensable to its attraction.

13. In the case at hand, the prosecution alleges that the petitioner created multiple electronic mail accounts in the name of witness No.2, employed the identity particulars of the said witness and thereafter transmitted a communication purporting to emanate from a terrorist organisation, threatening bomb blasts at prominent public establishments. The alleged concealment of the actual author of the communication, coupled with the use of electronic identities attributable to another person, constitutes material germane to the offences invoked. Whether the threatening communication satisfies all the ingredients of criminal intimidation and whether the alleged impersonation was accompanied by the deception and inducement necessary to constitute cheating by personation are matters that must be determined upon appreciation of the evidence.

14. The contention projected by the learned counsel for the petitioner, that the internet connection available to the petitioner was not functional on the date of the incident, does not commend acceptance as a ground for terminating the prosecution at its threshold. The argument proceeds on the

premise that because a particular internet connection was allegedly inoperative, the petitioner could not have transmitted the offending electronic mail. **Such a proposition, in the realm of electronic communications, is far too fragile to sustain the weight of quashment.**

15. An electronic mail account is not inextricably tied to a particular computer, a particular internet connection or a particular geographical location. Access to an electronic mail account may be secured through different devices, networks and modes of connectivity. The alleged failure of one internet connection, therefore, does not by itself establish the impossibility of transmitting an electronic communication through another available means. The complaint lodged by the petitioner with his Internet Service Provider may constitute a circumstance available to him in defence; it cannot, without more, be elevated into conclusive proof that the alleged communication could not have originated from him.

16. Whether the internet connection was indeed inoperative, the duration of such inoperability, the devices through which the electronic mail accounts were accessed, the

electronic trail associated with the offending communication and the evidentiary worth of the material collected by the investigating agency are all matters requiring examination in accordance with law. The jurisdiction of this Court to quash criminal proceedings cannot be converted into a forum for adjudicating such disputed questions of fact or for conducting a mini-trial on the strength of competing documentary assertions.

17. These are all disputed questions of fact, which require to be trashed out in a full blown trial. The Apex Court in the case of **KAPTAN SINGH v. STATE OF UTTAR PRADESH** reported in **(2021) 9 SCC 35,** has held as follows:

> "…. …. ….
>
> **9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr.P.C.,, has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr.P.C.,, quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused**

persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. **If the petition under Section 482 Cr.P.C.,, was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation.** Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the**

material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 Cr.P.C.,, to quash the proceedings is an exception and not a rule. **It is further observed that inherent jurisdiction under Section 482 Cr.P.C.,, though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C.**, Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be

considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the

investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C., is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 Cr.P.C., only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed."

(Emphasis supplied at each instance)

What cannot be lost sight of is the nature of the threat alleged to have been communicated. The electronic mail proclaimed that the *Team of Jaish-e-Mohammed* had targeted the Kempegowda International Airport and several shopping malls in Bengaluru for bomb blasts commencing at 7.00 p.m. It also carried a

demand for payment to avert the threatened occurrence. A communication of this nature is capable of striking fear into the minds of citizens and compelling an immediate response from the authorities responsible for public

18. The law cannot permit the electronic medium to become a convenient cloak behind which an individual may, with impunity, assume another's identity, issue threats of catastrophic violence and thereafter seek immunity from prosecution on the strength of a disputed assertion concerning internet connectivity. A threat transmitted through a keyboard may occasion consequences as real as one delivered in person.

19. The liberty of an individual is undoubtedly precious and must remain protected against prosecutions bereft of legal foundation. But that liberty cannot be construed as a license to allegedly manufacture threats of public catastrophe, disturb civic tranquility and then demand that the prosecution be extinguished without the allegations being subjected to judicial scrutiny.

20. In the circumstances obtaining in the case at hand, the petitioner's assertion regarding the non-functioning of his internet connection is, at best, a matter of defense which must receive its due consideration at the appropriate stage. It is not a circumstance of such unimpeachable and incontrovertible character as would, by itself, demolish the prosecution case at its inception.

21. The petitioner, therefore, cannot be relieved of the criminal proceedings merely upon the solitary contention that the internet connection was allegedly defunct on 30.11.2025. The evidentiary questions concerning the authorship, transmission and attribution of the offending electronic mail, as also the satisfaction of the ingredients of the offences alleged, must be tested before the competent criminal Court. The extraordinary jurisdiction to quash criminal proceedings is intended to prevent abuse of the process of law; it is not intended to prematurely foreclose a prosecution merely because the accused projects a factual defense, which requires evidentiary examination.

22. Finding no merit in the petition, the petition stands rejected.

I.A.No.1/2026 stands disposed, as a consequence.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ/List No.: 3 Sl No.: 20