HC-KAR
NC: 2026:KHC-K:11154
CRL.P No. 200381 of 2025
CNR: KAHC030008812025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 200381 OF 2025

BETWEEN:

1. PRATAP SIHMA
   AGE 49YEARS, OCC SOCIAL WORKER,
   R/O 744, 8TH CROSS, 4TH STAGE
   1ST PHASE, VIJAYANAGAR, MYSURU,
   VIJAYANAGAR 2ND STAGE,
   KARNATAKA-570017.

2. KARAN
   S/O CHANDRASHIIKAR SUBEDAR
   AGE 36 YEARS, OCC BUSINESSMAN,
   R/O 2-3,23/4,
   ACHAPPAGOUDA SUBEDAR MEMORIAL HOSPITAL,
   C.B. SCHOOL, SHAHAPUR,
   YADGIR-585223.

3. SHIVAKUMAR,
   S/O BHEEMARAY, AGE 32 YEARS,
   OCC BUSINESS MAN,
   R/O NEAR MAREMMADEVI TEMPLE,
   GUTTIPETH ONI, SHAHAPUR,
   YADGIR-585223.

4. GURURAJ
   S/O ERANNA KAMA
   AGE 38 YEARS, OCC BUSINESS MAN,
   R/O 10-87/114, NEAR LAXMI TEMPLE,
   LAXMI NAGAR, SHAHAPUR, YADGIR-585223.

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5. NAGABHOOSHAN,
S/O TIPPANNA
AGE 30 YEARS, OCC BUSINESS MAN
R/O NEAR HADIMANI HOSPITAL,
KUMBAR ONI, SHAHAPUR,
YADGIR-585223.

…PETITIONERS

(BY SRI CHAITANYAKUMAR CHANDRIKI, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH SHAHAPUR P.S. YADGIR.
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA, KALABURAGI,
KALABURAGI-585107.

…RESPONDENT

(BY SRI M V ANOOP KUMAR, ADDL.SPP)

THIS CRL.P IS FILED U/S.482 OF CR.P.C.(OLD) U/SEC 528 OF BNSS, BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO, QUASH THE FIR, COMPLAINT REGISTERED BY THE 1ST RESPONDENT SHAHAPUR POLICE STATION IN CRIME NOO. 212/2024 FOR OFFENCE U/SEC 299, 192 OF BNSS 2023 PENDING IN THE CIVIL JUDGE AND JFMC (JN.DN) AT SHAHAPUR, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional State Public Prosecutor for the respondent-State.

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2. This petition is filed to quash the FIR registered by the first respondent, Shahapur Police in Crime No.212/2024 for the offences alleged under Sections 299, 192 of Bharatiya Nyaya Sanhita, 2023 ('BNS').

3. The complaint is lodged on 23.09.2024 in respect of an alleged incident dated 21.09.2024 at Shahapur.

4. It is alleged that the petitioner no.1 was the chief guest in a function organised by petitioners no.2 to 4. There is no dispute that the petitioners no.2 to 4 had obtained permission to hold the event which was held on the day of the Ganesha idol immersion. The complaint is filed around 08:40 p.m.

5. It is alleged that the petitioner no.1 addressed the public gathered and his speech aimed at disturbing the communal peace and thereby, the petitioner no.1 committed offences under Sections 192 and 299 of Bharatiya Nyaya Sanhita, 2023 ('BNS').

6. Learned counsel appearing for the petitioners would submit that, there was a valid permission to hold the event and

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petitioner no.1 was one of the speakers invited to the function and the speech which was allegedly recorded does not attract either Section 192 or Section 299 of BNS.

7. Learned counsel for the petitioners would also submit that the offences alleged attract the imprisonment of less than 7 years, as such, the procedure contemplated under Section 173(3) of the BNSS, should have been followed and the Investigating Officer ought to have obtained the permission from the officer not below the rank of the Deputy Superintendent of Police before registering an FIR.

8. In addition, it is also urged that the petitioners No.2 to 4 have not made any speech and their speeches if any are not referred to in the complaint and there cannot be any allegation against the petitioners No.2 to 4.

9. It is the contention that the registration of an FIR is nothing but gross abuse of the process of the Court. Thus, learned counsel would urge that, the petition has to be allowed and the proceedings have to be quashed.

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10. Learned Additional SPP would submit that merely because there was a permission to hold the event does not mean that the petitioners can address the kind of speech that was addressed on the date of the incident. The speech addressed by the petitioner no.1 was aimed at disturbing the peace and tranquillity, and it was done with malicious intention of outraging the religious feelings of the members of a particular religious community as such, the ingredients of offence under Section 299 are attracted.

11. In addition, it is also urged that the petitioners gave provocation knowing fully well that such provocation would likely cause the offence of rioting as such, Section 192 of the BNS is also attracted.

12. The Court has considered the contentions raised at the Bar and perused the records.

13. Section 173(3) of BNSS reads as under:-

> *"173. Information in cognizable cases.- (1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic*

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communication to an officer in charge of a police station, and if given-

(i) XXXX

(ii) XXXX

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,-

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case."

14. From the aforementioned provision, it is evident that in case a complaint is filed relating to commission of the cognisable offences and if the offences are punishable with imprisonment for 3 years or more, but less than 7 years, the officer in charge of the police station may with the prior permission of an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence, and may proceed to conduct preliminary enquiry to

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ascertain whether there exists a *prima facie* case for proceeding in the matter within a period of 14 days, or;

to proceed with the investigation where there exists a *prima facie* case.

15. From the language employed in Section 173(3) of the BNSS, there is no mandate on the police officer to seek permission from the officer not below the rank of the Deputy Superintendent of Police if the offences attract punishment for more than 3 years and less than 7 years. Such procedure is to be followed in case the preliminary investigation is required before registering the FIR.

16. The Court has considered the speech made by the petitioner no.1, which is quoted in the complaint and same is extracted below.

> *"ಎಲ್ಲಾ ಕಡೆ ಹಿಂದೂ ಪ್ರೆಸೆಷನ್‌ಗಳ ಮೇಲೆ ಕಲ್ಲು ಬಿಸಾಡುವಂತಹ ಪ್ರವೃತ್ತಿ ಕಾಣಸ್ತಾ ಇದೆ. ನಾನು ಇಲ್ಲಿರುವ ನಾಗರಿಕರನ್ನು ಕೇಳಲು ಬಯಸುತ್ತೇನೆ ಮೊನ್ನೆ ಈದ್ ಮಿಲಾದ್ ಪ್ರಸೆಷನ್ ಆಯಿತು. ಬಹಳಷ್ಟು ಪ್ರೊಪೆಷನ್ ನಡೆತಾ ಇರುತ್ತವೆ. ಯಾವನೇ ಹಿಂದೂ ಈದ್ ಮಿಲಾದ್ ಪೊಸೆಷನ್‌ಗೆ ಕಲ್ಲು ಒಡೆದಿರೊದು ತೋರಿಸಿ. ಕಲ್ಲು ಹೊಡೆಯುವ ಸಂಸ್ಕೃತಿ ಮುಸ್ಲಿಮಾನರಿಗೆ ಯಾಕೆ ಬರುತ್ತೇ. ಕಲ್ಲು ಹೊಡೆಯುವ ಸಂಸ್ಕೃತಿಯನ್ನು ನೀವು ಯಾಕೆ ಇಟ್ಟಕೊಂಡಿರಿ. ಈ ದೇಶದಲ್ಲಿ ಇರುವಂತಹ 80% ಜನ ಹಿಂದೂಗಳು ಕೈಯಲ್ಲಿ ಕಲ್ಲು ಹಿಡಿದುಕೊಂಡರೇ ನಿಮ್ಮ ಕತೇ ಏನು ಆಗುತ್ತೇ ಅಂತ*

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ನಿಮಗೆ ಗೊತ್ತಿದಿಯಾ? ಹಾಗೂ ಅದಕ್ಕೆ ನಾನು ನಿಮಗೆ ಇನ್ನೊಂದು ಮಾತು ಹೇಳೊಕೆ ಬಯಸ್ತಿನಿ ನಾವು ಪ್ರೆಸೆಷನ್ ಹೋಗುತ್ತಿದ್ದರೇ ಪೆಟ್ರೊಲ್ ಬಾಂಬ್ ಹಾಕತ್ತೀರಿ. ಕಲ್ಲು ಬಿಸಾಡತ್ತಿರಿ. ತಲವಾರ ತೋರಿಸ್ತಿವಿ ಅಲ್ವಾ ಮುಸ್ಲಿಮಾನರೇ ನಾನು ನಿಮಗೆ ಸ್ಪಷ್ಟವಾಗಿ ಹೇಳೊಕೆ ಬಯಸ್ತಿನಿ ಇವತ್ತು ನ್ಯೂಕ್ಲಿಯರ್ ಬಾಂಬ್‌ನ್ನು ಮಾಡಿರುವಂತಹ ಹಿಂದೂಗಳಿಗೆ ಈ ಗುಜರಿ ಟಾಂಗಾದಲ್ಲಿ ಮಾಡುವಂತಹ ಪೆಟ್ರೊಲ್ ಬಾಂಬ್ ಮಾಡೋಕೆ ಬರಲ್ವಾ, ಕಂಡಂತಹ ಅಕ್ಷಿಪಡೆಗಳ ಬ್ಯಾಲೆಸ್ಟಿಕ ಮಿಷನ್ ಮಾಡಿರುವಂತಹ ಹಿಂದೂಗಳಿಗೆ ಕಲ್ಲು ಬಿಸಾಡೊಕೆ ಬರಲ್ವಾ ಅಂತ ತಿಳಕೊಂಡಿರಾ. ಇವತ್ತು ಚಂದ್ರನ ಸೌಥ ಬೋಲ್‌ಗೆ ಜಗತ್ತಿನ ಯಾವ ದೇಶವು ಕೂಡಾ ತನ್ನ ನೌಕೆ ಲ್ಯಾಂಡ್ ಮಾಡೋಕೆ ಆಗಿಲ್ಲ. ಸೌಥ ಪೋಲ್ ವಿಸ್ಸುತ್ ಮೇಲೆ ನಮ್ಮ ಚಂದ್ರಯಾನ್ ಏನು ಇದೆ ನಮ್ಮ ನೌಕೆ ಲ್ಯಾಂಡ್ ಮಾಡಿದೆ ಚಂದ್ರನ ಮೇಲೆ ಹೋಗಿ ಲ್ಯಾಂಡ್ ಮಾಡಿದವರಿಗೆ ನಿಮ್ಮನ್ನು ತಳದ ಮೇಲೆ ಪೆಟ್ರೋಲ್ ಬಾಂಬ್ & ಕಲ್ಲುಗಳನ್ನು ನಮ್ಮ ಕೈಯಲ್ಲಿ ಮಾಡೋಕೆ ಆಗಲ್ಲ ಅಂತ ತಿಳಕೊಂಡಿರಾ. ಈ ಟಾಂಗ್‌ಗಳನ್ನು ' ಗುಜರಿಗಳು ಆ ಮಾಡೋ ಕೆಲಸನಾ ನಮಗೆ ಕ್ಷಣ್ ಮಾತ್ರದಲ್ಲಿ ಮಾಡಲು ಬರುತ್ತದೆ. ಆದರೇ ನಾನು ಮಾನವತೆಯ ಮನುಕುಲದ ಉದ್ಧಾರಕ್ಕೊಸ್ಕರ್ ಒಳ್ಳೆಯ ಕೆಲಸ ಮಾಡುತ್ತೇವೆ ಹೊರತು ಕಲ್ಲು ಬಿಸಾಡೊ ಕೆಲಸ ಮಾಡಲ್ಲ ಆದ ಕಾರಣ ನಾನು ಎಚ್ಚರ ಕೊಡಲು ಬಯಸುತ್ತೇನೆ ನಾವೇಲ್ಲ ಹಿಂದೂಗಳು ಒಂದಾಗಿರಬೇಕು. ಇಲ್ಲಂದರೇ ಈ ಪೆಟ್ರೊಲ್ ಬಾಂಬ್ ಹಾಕುವ ಮತ್ತು ಕಲ್ಲು ಬಿಸಾಕೊವ ಮುಂದಿನ ದಿನಗಳಲ್ಲಿ ಇಡೀ ಹಿಂದೂ ಧರ್ಮಕ್ಕೆ ಅಪಾಯ ಎದುರಾಗುತ್ತದೆ ಅಂತಾ".

17. Learned counsel for the petitioners would not dispute the contents of the speech. On perusal of the contents of the aforementioned speech, the Court is of the view that there was no need for the Investigating Officer to seek permission of the officer not below the rank of Deputy Superintendent of Police as required under Section 173(3) of BNSS.

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18. The Investigating Officer had the videograph of the alleged speech. Thus, in case investigating officer has deemed it appropriate register an FIR, said procedure in the facts of this case cannot be said to be in violation of Section 173(3) of BNSS.

19. Though the learned counsel for the petitioners would submit that the copy of the said speech is not furnished to the petitioners, what is required to be noticed is that, the case is still at the investigation stage. If the charge sheet is filed, then the copy of the said speech will have to be served to the petitioners.

20. Now the Court has to consider whether case is made out to quash the proceedings for the offences under Sections 192 and Section 299 of the BNS for want of ingredients in the complaint.

21. Said provisions read as under:-

"Section 192. Wantonly giving provocation with intent to cause riot-if rioting be committed; if not committed.

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Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

"Section 299. 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 through electronic means 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."

22. From the contents of the complaint and from the contents of the speech more particularly, the Court is of the view that the matter requires investigation as against petitioner no.1. Whether the petitioner No.1 had intention to cause rioting has to be considered at the time of investigation. From the contents of the complaint it is evident that no such rioting has taken place. Thus, first part of Section 192 is not applicable. However, the allegation relating to the alleged offence for the

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second part of Section 192 has to be investigated. The reason is second part gets attracted even if the rioting does not take place. However, whether the petitioner had an malicious intention to cause such riot requires investigation and based on the investigation the appropriate report has to be filed.

23. In addition, the contents of the complaint call for investigation for the alleged offence under Section 299 of BNS as the basic ingredients of the offence appear in the complaint.

24. As far as remaining petitioners are concerned, it is noticed that there is nothing in the complaint to indicate that the petitioners no.2 to 4 also instigated the petitioner no.1 to address the kind of speech that was addressed. The only allegation is that, they have organized the event and they have invited the petitioner no.1 as the Chief Guest. Thus, the registration of FIR against the petitioners No.2 to 4 is impermissible. The investigation has to be carried out relating to the allegations made against the petitioner No.1. Based on the materials, appropriate report has to be filed.

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25. For the aforementioned reasons, the Court passes the following:

ORDER

(i) The petition is ***allowed in part.***

(ii) The proceedings in Crime No.212/2024 insofar as petitioners No.2 to 4 are quashed.

(iii) The investigation shall continue against petitioner no.1.

(iv) It is made clear that observations made in this order are only confined to the merits of the petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 and not on the merits or demerits of the case of both sides.

(v) All contentions kept open.

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(ANANT RAMANATH HEGDE)
JUDGE

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