

Sri Punith Shetty vs State of Karnataka

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Court : Karnataka

Decided On : Jan-24-2025

Judge : S.R.Krishna Kumar

Appeal No. : CRL.P/9884/2023

Appellant : Sri Punith Shetty

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JANUARY, 2025 BEFORE THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR CRIMINAL PETITION NO. 9884 OF 2023 (482(Cr.PC) / 528(BNSS) BETWEEN: SRI PUNITH SHETTY S/O PADMANAB SHETTY, AGED ABOUT 35 YEARS, R/AT KURGAMBIKA KRUPA, KUNTALPADI, PADAVU GRAMA, SHAKTHINAGARA, MANGALORE TALUK MANGALORE 575 006. PETITIONER (BY SMT. HALEEMA AMEEN, FOR SRI. ASHOK KUMAR SHETTY.K, ADVOCATES) AND:

1. STATE OF KARNATAKA BY URVA POLICE STATION MANGALORE, REPRESENTED BY SPP, HIGH COURT BUILDING, BANGALORE 560 001. Digitally signed by LEELAVATHI S R

2. SRI VENUGOPAL A Location: High Court of AGED ABOUT 54 YEARS Karnataka ASSISTANT SUB INSPECTOR OF

POLICE URVA POLICE STATION, STATION AT: URVA POLICE STATION, URVA, MANGALORE - 575 006. RESPONDENTS (BY SMT. WAHEEDA, HCGP) THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.75/2023 OF URVA POLICE STATION, REGISTERED FOR OFFENCE P/U/S.353,506,507 OF IPC PENDING ON THE FILE OF THE JMFC III COURT, MANGALURU.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER

WAS MADE THEREIN AS UNDER: -2- CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioner who is the sole accused in Crime No.75/2023 dated 12.08.2023 seeks quashing of the aforesaid proceedings registered against him for the offences punishable under Sections 353, 506 and 507 of IPC.

2. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material on record.

3. A perusal of the material on record will indicate that a

suo moto complaint is was said to have been given by respondent No.2- the Assistant Sub-Inspector of Police, respondent No.1 registered an FIR in Crime No.75/2023 for the alleged offences under Sections 353, 506 and 507 of IPC. It is an undisputed fact as borne out from the material on record that the petitioner-accused was not physically present at the police station and instead the entire

allegations revolve around a phone call said to have been made by the petitioner to respondent No.2 so as to enable him to register an offence under Section 304-A IPC. -3-

4. Learned counsel for the petitioner invited my attention

to the judgment of the Apex Court in the case of Manik Taneja and another Vs. State of Karnataka and another - (2015) 7 SCC 423, which has been followed by this Court in subsequent

judgment in order to point out that general / vague / bald

allegations would not be sufficient to constitute the offences under Sections 353 or 506 or 507 of IPC especially based on an alleged phone conversation, which does not indicate that any of the said offences have been committed by the petitioner as contended in the impugned complaint. It is therefore submitted that the impugned proceedings against the petitioner deserves to be quashed.

5. Per contra, learned HCGP submits that there is no merit in the petition and that the same is liable to be dismissed.

6. Before adverting to rival contentions, it would be

apposite to extract the averments made in the complaint, which reads as under: EjU, ouPjU, G ou, AUg. . . . 4445156. .

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DIDS WBS WEF WOW OY, . Mayer . . . DOO) ae .. Bos seg, ? (Bade say, OY, Beg .

7. In Manik Tanejas case (Supra), regarding the offences under Sections 353 and 506 of IPC, the Apex Court held as under:

10. So far as the issue regarding the registration of FIR under Section 353 IPC is concerned, it has to be seen whether by posting a comment on the Facebook page of the traffic police, the conviction under that section could be maintainable. Before considering the materials on record, we may usefully refer to Section 353 IPC which 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.

A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC -6-

are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, the ingredients of the offence under Section 353 IPC are not made out.

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. Criminal intimidation as defined in Section 503 IPC is as under:

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 threat, 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. A reading of the definition of criminal intimidation would indicate that there must be an act of threatening to -7-

another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the

appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of criminal intimidation. The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.

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13. Of course, in exercise of its jurisdiction under

Section 482 Cr PC, the court should be extremely cautious to interfere with the investigation or trial of a criminal case and should not stall the investigation, save and except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of offence and that continuance of the criminal prosecution would amount to abuse of process of the court. As noted earlier, the page created by the traffic police on Facebook was a forum for the public to put forth their grievances. In our considered view, the appellants might have posted the comment online under the bona fide belief that it was within the permissible limits. As discussed earlier, even going by the uncontroverted allegations in the FIR, in our view, none of the ingredients of the alleged offences are satisfied. We are of the view that in the facts and circumstances of the case, it would be unjust to allow the process of the court to be continued against the appellants and consequently the order of the High Court is liable to be set aside.

14. In the result, the impugned order of the High Court

in Manik Taneja v. State of Karnataka [2014 SCC OnLine Kar 4237] dated 24-4-2014 is set aside and this appeal is allowed and the FIR in Crime No. 174 of 2013 registered against the appellants is quashed.

8. The said judgment was followed by this Court in the

case of Mr. Satish Vs. State of Karnataka and others - W.P.No.6880/2020 dated 08.04.2022, wherein it is held as under: -9- 8. I have considered the arguments. In this petition the quashing of FIR is sought. It is a well established principle that the High Court should

exercise its power under Article 226 of the Constitution of India or section 482 of the Cr.P.C with great circumspection for quashing the FIR. Nipping the criminal action at the inception is not encouraged unless it is pointed out that the FIR does not disclose existence of the ingredients of the offence complained of or registration of FIR is

with mala fide intention. Investigation process

should not be stalled. In the case of State of Karnataka and Another vs Pastor P Raju [(2006) 6 SCC 728] it is held that the inherent power of the High Court under section 482 Cr.P.C should be exercised to prevent the abuse of process of any court or to secure ends of justice, but such a power cannot be exercised to interfere with statutory power of the police to investigate a cognizable case.

9. In the case on hand, second respondent police has registered FIR against the petitioner for the offences under sections 353, 506 and 507 of

IPC. Of these three offences, the only cognizable offence is under section 353, the other two being non-cognizable. Therefore, firstly it is to be found out whether the report given by the third respondent makes out ingredients necessary for invoking that offence. In order to appreciate the -10- facts, it is better to extract here the report made by the third respondent : -) FOVOAOD . : FSET (^ 7 evejea: Tee : 4.20

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10. The FIR came to be registered in the background of posting of a message or information by the petitioner on social media. For invoking the offence under section 353 the essential ingredient to be present is that a person accused of committing this offence should have assaulted or used criminal force against a public servant while discharging his official duty. The words criminal force and assault find their meaning in sections 350 and 351 IPC respectively. Section 350 requires the following ingredients to be satisfied : -

(i) Intentional use of force to any person

(ii) Force must have been used without the persons consent and

(iii) The force must be used for committing an offence or with intention to cause or knowing it to be likely that he will cause injury, fear or annoyance to the person to whom it is used.

11. The word assault as defined in section

351 means making of a gesture or preparation intending or knowing it to be likely that the gesture or the preparation will cause apprehension in the mind of another person that criminal force will be used against him. The illustrations to sections 350 and 351 IPC make the meaning of words criminal force and assault very clear. In common parlance, the word assault is understood as one person beating another person with or without weapon. But this common parlance meaning - 12 - cannot be employed while examining the FIR to find out whether an offence under section 353 IPC

is made out or not, in the given s

petitioner posted certain messages in awkward language. The second one pertains to putting threat to him in case he did not agree for his demands and that the third one is again putting threat to getting him transferred to another place in case he attended to the work of anybody whom the petitioner did not like. These allegations do not disclose either using criminal force or making assault. No doubt the third petitioner is a public servant. Mere posting of a message on social media does not amount to interference by the

petitioner with his official duties and thereby constitutes an offence punishable under section 353 IPC. There is no allegation that the petitioner ever made a gesture or used criminal force to the annoyance of the third respondent. Of course, the third allegation of getting the third respondent transferred may amount to putting threat which is punishable under section 506 IPC, but it does not fall within the ambit of section 353. Further, there are no ingredients for attracting the offence under

section 507 at all. Both the offences under sections 506 and 507 are non-cognizable and no investigation could have been undertaken without - 13 -

the permission of the Magistrate. Probably in order

to obviate the necessity of taking permission from the Magistrate, the second respondent might have

invoked the offence under section 353 IPC. The learned counsel for respondent No.3 has placed reliance on the judgment of the Bombay High Court in the case of Surajkumar Satyabrath Pal vs State of Maharashtra [2015 SCC Online Bombay 2994] to garner support for his argument that there is no case for quashing FIR. The facts of this case clearly disclose that the offence under section 353

IPC was invoked and in the facts and circumstances of that case it was held that the assault as defined under section 351 was made out. This judgment is not applicable here. Even in Annexure-R9 there are no materials disclosing commission of offences under sections 353, 506 and 507 IPC. Therefore, if the petitioner is unnecessarily prosecuted for this offence, it is nothing but abuse of process of court. For all these reasons, I am of the opinion that the petitioner has been able to make out a ground for quashing the FIR.

12. Another complaint of the petitioner is

that he was not able to procure a copy of the FIR as it was not uploaded on the official website of the police department. In this regard it is necessary to place reliance on the judgment of the Supreme Court in the case of Youth Bar Association of - 14 -

India (supra) where certain guidelines are given by the Supreme Court to the police. It is not necessary to refer to all the guidelines here. Though it is submitted by the Government Pleader that the FIRs are being uploaded on the official website of the police department, in order to emphasize the strict compliance of the directions of the Supreme Court given in the case of Youth Bar Association of India (supra), direction may be issued once again.

13. In the result, this writ petition succeeds. The FIR in Crime No. 95/2020 against the petitioner for the offences under sections 353, 506 and 507 of IPC is quashed.

The Department of Home, Government of Karnataka, is hereby directed to upload every FIR registered in every police station across the State of Karnataka in accordance with the directions issued by the Supreme Court in Youth Bar

Association of India vs Union of India and Another [(2016) 9 SCC 473]. Copy of this order shall be forwarded to the Director General of Police, Karnataka State, and the Commissioner of Police, Bengaluru, for implementation.

9. So also, in the case of Jagadeesh Karanth Vs. The

State of Karnataka - W.P.No.14198/2022 dated 16.09.2022, a - 15 - co-ordinate Bench of this Court while considering the scope and ambit of Sections 353 and 506 of IPC placed reliance upon the

judgment of the Apex Court in the case of Manik Taneja (supra)

and quashed the proceedings, which reads as under: 3. Learned counsel appearing for the petitioner submits that the issue in the lis stands covered by the

judgment rendered by the Apex Court in the case of MANIK

TANEJA AND ANOTHER VS. STATE OF KARNATAKA AND ANOTHER reported in (2015) 7 SCC 423 and the

judgment rendered by the High Court of Kerala in the case

of RAJU THOMAS @ JOHN THOMAS VS. STATE OF KERALA reported in (2012) 4 KLJ 382.

4. The Apex Court in MANIK TANEJA case (supra), has held as follows:

9. In State of T.N. v. Thirukkural Perumal

[(1995) 2 SCC 449 : 1995 SCC (Cri) 387] considering the scope of Section 482 Cr PC to quash the FIR/criminal proceedings, this Court has held as under: (SCC p. 450, para 4) 4. The power of quashing an FIR and criminal proceeding should be exercised sparingly by the courts. Indeed, the High Court has the extraordinary or inherent power to reach out injustice and quash the first information report and criminal proceedings, keeping in view the

guidelines laid down by this Court in various

judgments (reference in this connection may be made with advantage to State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC

(Cri) 426]) but the same has to be done with circumspection. The normal process of the criminal trial cannot be cut short in a rather casual manner. 10. So far as the issue regarding - 16 -

the registration of FIR under Section 353 IPC is concerned, it has to be seen whether by posting a comment on the Facebook page of the traffic police, the conviction under that section could be maintainable. Before considering the materials on record, we may usefully refer to Section 353 IPC which 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.

A reading of the above provision shows that the

essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, the ingredients of the offence under Section 353 IPC are not made out.

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. Criminal intimidation as defined in Section 503 IPC is as under:

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 threat, 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. A reading of the definition of criminal intimidation

would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation

is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of criminal intimidation. The threat must be with intention to cause alarm to the - 18 -

complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to

be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.

5. The High Court of Kerala in RAJU THOMAS @ JOHN THOMAS case (surpa), has held as follows:

2. I heard the learned counsel for the petitioner and also the learned Public Prosecutor. The materials placed by the prosecuting agency do not disclose of any of the essential ingredients constituting the offences, to proceed against the petitioner, and as such the criminal proceedings initiated against him are an abuse of the process of the court, is the submission of his counsel.

3. Annexure A1 is the complaint given by the

defacto complainant before the Circle Inspector of Police to proceed against the accused for the alleged criminal acts imputed over the destruction of a notice board. Annexure A6 is a copy of the notice affixed on such board, which was destroyed by the accused. Going through Annexure A6, it is seen that the notice put up naming the accused imputed him as an uncivilized person indulging in antisocial activities. If he does not reform, then, the people of the locality will do what is necessary, is the substance of the notice published. Such a notice published and put up in a board at a public - 19 -

place was torn up and destroyed by the petitioner/accused, is the case of the complainant alleging that thereby he has suffered loss of Rs. 500/-. Even assuming that the allegation raised is true and correct, still, how far the

complainant or any other person could have put up a notice board in a public place, the contents of which are per se defamatory against the petitioner is also a larger issue resented on the allegation raised in the complaint. Petitioner has got a case that as against the complainant he had previously launched criminal proceedings which after investigation by the police, has led to his indictment and trial before a court. When such circumstances are canvassed of, which are not refuted, that has also to be taken note of in considering whether the criminal proceedings launched against the petitioner on the complaint over the destruction of the notice board is justified.

4. To constitute an offence under Section 153 of

the IPC, the essential ingredients thereof have to be made out. The act imputed against the accused is illegal, he has done such act malignantly or wantonly, and, he has given provocation to any person intending or knowing that such provocation will cause the offence of rioting are the ingredients to establish the offence. To hold that an act is done malignantly, it must be an unlawful act done intentionally without just cause or excuse. Malignant means extreme malevolence or enmity; violently hostile or harmful. The act imputed, if not malignantly, should be at least shown to have been done wantonly.

Wantonly simply means recklessly, thoughtlessly, without regard for right or consequences. More than that the act has been done malignantly or wantonly, it is also required to be shown that the act of the accused was illegal. A notice containing defamatory statement put up in a board at a public place against the accused was torn of by him. Even if that is accepted on its face value, it cannot be viewed as an unlawful act done by him out of extreme malevolence or enmity or

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recklessness. Notice board contained defamatory statement against the accused is not disputed. None has a right to exhibit such a notice board in a public place cannot also be lost sight of. Even assuming that the complainant should have approached the law enforcing agency rather

than taking action by himself, in the given facts and circumstances presented, it cannot be stated that tearing of the notice board containing defamatory statement against him and that too exhibited in a public place was an act done by him with intend to provoke any person to commit the offence of rioting. Where the exhibiting of such a board against him at a public place itself is shown to be illegal, tearing away that notice board, even if such allegation is accepted as true, cannot be considered as an act intentionally done to provoke any other person to commit rioting. At best, it was an act of removing a notice board affecting his self respect and dignity when it was exhibited by some miscreants at a public place.

6. Learned HCGP, though, refute the submission

of the learned counsel for the petitioner, is not in a position to dispute the position of law as is laid down by the Apex Court and the High Court of Kerala (supra).

7. In the light of the aforesaid judgments, the following:

ORDER

i) Writ petition is allowed. ii) The proceedings in C.C.No.284/2022 pending on the file of Senior Civil Judge and JMFC, Bantwalal Taluk, stand quashed.

10. Similarly, in the case of Shri Vijay Tata Vs. The State

of Karnataka - Crl.P.No.9366/2018 dated 10.01.2019, a co- - 21 - ordinate Bench of this Court followed the judgment of the Apex Court in the case of Manik Taneja (supra) and quashed the proceedings by holding as under: Heard Shri C.V.Nagesh, learned Senior Advocate for the petitioner and Shri A.S. Ponnanna, learned Additional Advocate General for the State.

2. This petition is filed challenging FIR

No.59/2018 registered on 13.12.2018 in Vidhana Soudha police station alleging commission of offences punishable under Sections 353 & 120B of IPC against petitioner and two others.

3. Shri C.V.Nagesh, learned Senior advocate,

adverting to the complaint lodged by one Shri Manjunath.B, Police Inspector, CCB, Bengaluru, pointed out that the contents of complaint are to the effect that Mr. Zaid Khan and Mr. Sirajuddin held a press conference in Press club in Bengaluru on 12.12.2018 and in the said press conference, they had allegedly made certain uncharitable allegations against Police officers, CCB, who were investigating the offences in respect of a Company called Ambident; and stated that their investigation had facilitated the accused in the said case to obtain bail. With the said allegations, instant complaint has been lodged alleging offence punishable under Section 353 of IPC in Vidhana Soudha police station. He argued that if the complaint is read in its entirety, it does not disclose any offence punishable under Section 353 of IPC. He placed reliance on Manik Taneja and another v. State of Karnataka - 22 -

and another and submitted that the instant complaint does not fulfill the ingredients of Section 353 of IPC. Accordingly, he prays for allowing this petition.

4. Shri A.S.Ponnanna, learned Additional Advocate General argued in support of the complaint.

5. I have carefully considered the submissions of learned Senior Advocate, learned Additional Advocate General and perused the records.

6. Section 353 of 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.

7. In substance, what is alleged in the complaint is

that two persons namely, Mr. Zaid Khan and Mr. Sirajuddin had made certain uncharitable comments against Police officers. When the allegations levelled in the complaint are examined in the light of language employed in Section 353 of IPC, it is clear that complaint does not contain any allegation of assault or use of criminal force to a public servant with intent to prevent him from discharging his duty. It is unfortunate that Police officers have resorted to registering a complaint without there being any ingredients

- 23 - attributable to Section 353 of IPC. In Manik Taneja, the Supreme Court of India has held as follows:

10. So far as the issue regarding the registration of FIR under Section 353 IPC is concerned, it has to be seen whether by posting a comment on the Facebook page of the traffic police, the conviction under that section could be maintainable. Before considering the materials on record, we may usefully refer to Section 353 IPC which read 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. A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it

appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent that second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, the - 24 -

ingredients of the offence under Section 353 IPC are not made out.

8. In the circumstances, it leaves no doubt that

the allegations in the complaint do not conform to the attributes and ingredients of Section 353 of IPC. Resultantly, this petition merits consideration and is accordingly allowed. FIR No.59/2018 registered in Vidhana Soudha Police station pending on the file of I Additional Chief Metropolitan Magistrate, Bengaluru and all further proceedings thereon are quashed.

9. At this stage, Shri C.V.Nagesh, learned Senior

Advocate contends that since this Court has taken a view that FIR is bad in law and quashed the same, any materials seized during the course of investigation shall be returned. He is right in his contention. In the circumstances, respondents are directed to release any or all articles seized during the course of investigation, forthwith.

10. In view of disposal of the petition, I.A.No.1/2019 does not survive for consideration and the same stands disposed of. No costs.

11. As stated supra, a bare the reading of the complaint

will clearly indicate that necessary ingredients to constitute the offences under Sections 353, 504 and 506 of IPC was not made out especially when a complaint is based on a telephonic conversation, even without presence of the accused, who has not - 25 - committed any of the offence as alleged against him, in the light of the law laid down by the Apex Court and the same would tantamount to abuse of

process of law, warranting interference by this Court.

12. In the result, I pass the following:

ORDER

(i) The Criminal petition is allowed.

(ii) The impugned criminal proceedings in Crime

No.75/2023 registered by respondent No.1 Police, for the offences under Sections 353, 506 and 507 of IPC, pending on the file of the JMFC-III Court, Mangalore, in so far as the petitioner is concerned, are hereby quashed. Sd/- (S.R.KRISHNA KUMAR) JUDGE BMC

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