

IN THE HIGH COURT OF KARNATAKA AT DHARWAD BENCH

DATED THIS THE 26TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.100812 OF 2024

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BETWEEN:

1 . S. NAGARAJAN
PRODUCTION ASSISTANT, DD INDIA
DOORDARSHAN BHAWAN TOWER-B
COPERNICUS MARG
NEW DELHI-110001.

2 . B. ASHOKA
HELPER,
SUPER POWER TRANSMITTER
ALL INDIA RADIO,
YELAHANKA NEW TOWN
BENGALURU.

RESIDING AT :
II MAIN, SUNCITY LAYOUT
OPP. GOWRISHANKAR TEMPLE
KOTHANUR VILLAGE
7TH PAHSE, J.P.NAGAR
BANGALORE-78.

... PETITIONERS

(BY SRI HITESH GOWDA B.J., ADVOCATE FOR
SRI SHIVARAJ C. BELLAKKI, ADVOCATE)

AND:

1 . NADOJA DR. MAHESH JOSHI IB(P)S
S/O. HANUMANT BHAT JOSHI,
C/O GIRISH S. DESHPANDE

HOUSE NO.2385,
BEHIND DUTTA TEMPLE
HANAGAL-581104
HAVERI DISRICT.

PERMANENTLY RESIDING AT:
NO.10, GURU GOVIND KRUPA
16 MAIN, R.K.LAYOUT,
3RD PHASE, PADMANABH NAGAR
BENGALURU-560070.

... RESPONDENT

(BY SRI SUYOG HERELE, ADVOCATE FOR
SRI SANJAY S. KATAGERI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., SEEKING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE ACCUSED NO.3 AND 4/PETITIONERS IN CC NO.76/2020, PENDING ON THE FILE OF ADDL. SENIOR CIVIL JUDGE AND JMFC, HANGAL, REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 499, 500 R/W SECTION 34 AND 120(B) OF IPC.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.07.2024 THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE H.P.SANDESH

CAV ORDER

(PER: HON'BLE MR JUSTICE H.P.SANDESH)

This petition is filed by petitioners-accused Nos.3 and 4 praying this Court to quash the entire proceedings in C.C.No.76/2020 pending on the file of the Additional Senior Civil

Judge and JMFC at Hangal for the offences punishable under Sections 499 and 500 read with Section 34 and 120-B of IPC.

2. The factual matrix of the case of the respondent-complainant by filing a private complaint is that accused No.1 had written a complaint dated 23.01.2015 of sexual harassment at work place of Director General, Dooradarshan and the same was forwarded to Prime Minister of India, Minister I & B, State Minister I & B, Chairman-Prasar Bharati, CEO-Prasar Bharati, Chairperson NCW and Chairperson, Internal Complaints Committee with an intention to spoil the image of the respondent and also filed complaint of sexual harassment before Tilak Marg Police Station on 04.03.2015. As a result, the complainant got deprived his promotion to the post of the Director General.

3. It is contended in the complaint making an allegation against the accused Nos.3 and 4 that they are in conspiracy with the accused No.1 for giving information regarding such allegations to media and because of which the said news was publicized in the newspaper as contended in Paragraph Nos.22

and 23 of the complaint. It is also alleged against the petitioners that, in order to support the accused No.1, gave false statement as witness before the Enquiry Authorities and Investigating Officers. Hence, filed the complaint against them. The only allegation against the accused No.4 is that he wrote an email asking authorities to take action against the complainant on the complaint of sexual harassment filed by the accused No.1 against the complainant and posted the copy of said email to friends, well wishers and relatives. The Trial Court, by its order dated 05.11.2016, dismissed the complaint filed by the complainant against the accused Nos.2, 5 to 7 on the ground that no prima facie material to proceed against the above accused for taking cognizance. However, proceeded to register criminal case against accused Nos.1, 3 and 4. It is also contended that accused No.1 and complainant had compromised the matter for settling the dispute between themselves and permitted the complainant to withdraw the complaint filed against the accused No.1.

4. The ground urged in this petition is that when the accused No.1 had withdrawn the complaint against the accused No.1, the question of proceeding against these two petitioners, who have been arraigned as accused Nos.3 and 4 does not arise. The genesis for initiating present criminal proceedings by the complainant was sexual harassment complaint filed by the accused No.1. It is also contended that, in the complaint, specific allegations are made against the accused No.1 and common intention and conspiracy along with the accused No.1 is alleged in the complaint and when the complaint was withdrawn against the accused No.1, the question of conspiracy does not arise and continuation of proceedings is nothing but abuse of process of law. The complainant has made an allegation against the petitioners that they have given false evidence against the complainant before the Enquiry Authorities and Investigating Officers to defame the reputation of the complainant. The petitioners have given statement of what they had knowledge about the incident and given the statement before the Enquiry Authorities and Investigating Officers as witnesses and the same does not amount to defamation and the petitioners have not

made any statement or remarks against the respondent-complainant to spoil his name and respect in the society. Hence, prayed the Court to quash the proceedings.

5. Learned counsel for the petitioners also in his argument reiterated the grounds which have been urged in the petition that once the case has been compromised between the accused No.1 and the complainant, the question of continuing the criminal prosecution does not arise and no material is placed against the petitioners. The only allegation against the petitioners is that they made the statement against the respondent-complainant and the same will not amount to defamation. Learned counsel also brought to notice of this Court the allegations made in the private complaint and the same does not attract the offence of defamation.

6. Learned counsel for the respondent-complainant would vehemently contend that this Court has already decided similar petition and decision is also taken on merits and there is no changed circumstance. The complainant also brought to notice of this Court the order passed by this Court in

CRL.P.NO.4014/2017 dated **02.04.2019**, wherein in the said petition it is observed that specific allegations are made against the petitioners to proceed against them and direction was issued to the learned Magistrate to comply with the provisions of Section 202 of Cr.P.C. and thereafter proceed in accordance with law.

7. Learned counsel for the respondent also brought to notice of this Court Paragraph Nos.21, 22 and 23 of the PCR No.62/2016, wherein specific allegations are made against these petitioners and contend that the allegations made in the complaint amounts to defamation. The counsel also brought to notice of this Court Paragraph No.33, wherein also, in respect of accused Nos.1 and 4, specific allegations are made. Learned counsel also brought to notice of this Court the cognizance order dated 28.02.2020, wherein an observation is made by the Trial Court in Paragraph No.13 in respect of accused No.3 and in respect of accused No.4 in Paragraph No.14 and contend that specific allegations made against both of them are narrated and in Paragraph Nos.27 and 28, an observation is made that

accused No.3 gave his statement before Internal Complaint Committee as well as before Tilak Nagar Police, New Delhi. The accused No.3 gave statement before competent authorities stating that he was present when complainant sexually harassed accused No.1. Admittedly, Internal Complaint Committee submitted report stating that there was no such sexual harassment by the complainant to the accused No.1 and taken note of the said fact into consideration. In Paragraph No.28, made an observation that accused No.4 had sent mails to Ministry of I.B. and other officers. There is material on record to show that the complainant has taken action against the accused No.4 when he was Director of Dooradarshana, Bangalore. Hence, it does not require any interference by exercising power under Section 482 of Cr.P.C.

8. Learned counsel for the respondent-Complainant in support of his argument relied upon the judgment of this Court in ***W.P.NO.20061 OF 2013*** dated ***23.07.2013***, wherein in Paragraph No.5 of the order, an observation is made that merely because the complainant decided to compound the offences

against accused 2 and 3, petitioner cannot insist that the case against him also must be compounded. The complainant, at his choice could continue the prosecution against only some of the accused and compound the offence against others. Therefore, the petitioner as a matter of right cannot seek a direction to the complainant to compound the offence against him also.

9. Learned counsel also relied upon the judgment of High Court of Delhi between **SUNIL TOMAR VS. THE STATE OF NCT OF DELHI & ANR.** in **CRL.M.C.NO.1741/2021** dated **12.04.2022** and brought to notice of this Court Paragraph No.9 of the order, wherein an observation is made that partial quashing or part quashing of FIR only qua the petitioner/accused with whom the complainant has compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner/accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been settled between the parties.

10. Having heard the learned counsel for the petitioners and learned counsel for the respondent-complainant, this Court has to analyze the material available on record. No doubt, it is not in dispute that a compromise was entered into between the complainant and accused No.1 and grounds urged in the petition is that when the case was compromised with the accused No.1, who is the main accused, this Court has to quash the proceedings against the petitioners-accused Nos.3 and 4. Having referred the averments made in the complaint against the petitioners, who have been arraigned as accused Nos.3 and 4, particularly in Paragraph Nos.21 and 22 of the complaint and also considering the order passed by the Trial Court while taking cognizance, discussed the same in Paragraph Nos.13 and 14 of the cognizance order dated 28.02.2020 as against the accused Nos.3 and 4 respectively and while taking cognizance, the Trial Court in Paragraph No.27, in respect of accused No.3, taken note of the fact that accused No.3 made his statement before the Internal Complaint Committee as well as before the Tilak Nagar Police, New Delhi, wherein a sexual harassment allegation is made against the complainant and the Internal Complaint

Committee submitted a report stating that there was no such sexual harassment by the complainant to accused No.1. Hence, it was held that act of accused No.3 itself is sufficient to hold that, he knowing fully well, though there is no such incident of sexual harassment to the accused No.1 by the complainant gave false statement before the competent authority. Therefore, held that there is a prima facie material against accused No.3.

11. In respect of accused No.4, it is held that there is material on record to show that accused No.4 had sent mails to Ministry of I.B. and other officers. In all, he has sent mail to eight persons making allegation that complainant has indulged in such case earlier also. There is on record to show that the complainant has taken action against the accused No.4 when he was Director of Dooradarshana, Bangalore. Just to take revenge, the accused No.4 has made false allegation against complainant and sent mails to higher authorities. Hence, held that there is prima facie material against accused No.4 to that effect and without there being any reason, made false and baseless allegation against the complainant.

12. Having taken note of the material considered by the Trial Court against the petitioners, the Trial Court has issued summons. When such materials are placed on record, it is not a fit case to exercise the inherent power under Section 482 of Cr.P.C. and this Court does not find any abuse of process as contended by the learned counsel for the petitioners and the contention that there is no material against the petitioners cannot be accepted.

13. The judgments referred by the learned counsel for the respondent-complainant i.e., the judgment of this Court and High Court of Delhi are squarely applicable to the facts of the case on hand and the grounds urged in the petition is also that in view of compromise between accused No.1 and the complainant, there cannot be a criminal prosecution against the petitioners and the said contention cannot be accepted and the Court has to take note of the allegation made against each of the accused and when prima facie materials are found against the petitioners to take cognizance and issued the process, the question of interference by exercising the power under Section

482 of Cr.P.C. does not arise. Hence, I do not find any ground to quash the proceedings against the petitioners and the ground that in view of the compromise, the proceedings has to be quashed cannot be accepted in view of the judgments referred above by the learned counsel for the respondent-complainant.

14. In view of the discussion made above, I pass the following:

ORDER

The criminal petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

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