



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 11899 OF 2025 (482(Cr.PC) /
528(BNSS))

BETWEEN:

MAHAMMED ISMAIL ANSARI
S/O D IDINABBA
AGE 31 YEARS
R/AT PLOT NO.203,
SAMEER RESIDENCY,
BADRIYA 2ND CROSS, KANDAK,
MANGALURU - 575001.

...PETITIONER

(BY SRI. TAHIR.,ADVOCATE)

AND:

1. STATE BY MANGALORE NORTH PS
REP BY STATE PUBLIC PROSECUTOR,
OFFICE AT ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX
OPP VIDHANA SOUDHA,
BANGALORE 560001.
2. SATISHA KATANNANAVARA
POLICE OFFICER
AGED ABOUT 37 YEARS
PC-729, NORTH POLICE

Digitally
signed by
VANAMALA
N
Location:
HIGH
COURT OF
KARNATAKA



STATION, BUNDER,
MANGALURU - 575001.

...RESPONDENTS

(BY SMT. ASMA KOUSER., ADDL SPP)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) BY PRAYING TO A. SET ASIDE THE ENTIRE PROCEEDINGS IN IMPLICATION IN SC NO.200/2023 ARISING OUT OF CRIME NO.132/2019 AT ANNEXURE-D REGISTERED BY THE RESPONDENT NO.1 MANGALORE NORTH PS FOR THE OFFENCES P/U/S 143, 147, 148, 341, 504, 506, 427, 353, 332, 307, 120(b), 109 R/W 149 OF IPC AND SECTION 2(A), 2(B) OF THE KARNATAKA PREVENTION OF DESTRUCTION AND LOSS OF PROPERTY ACT, 1981 NOW PENDING ON THE FILES OF HONBLE VI ADDL.DISTRICT AND SESSION JUDGE, MANGALURU WHEREIN THE PETITIONER IS ARRAYED AS ACCUSED NO.33 B. SET ASIDE THE CHARGE SHEET DATED 15.03.2020 AT ANNEXURE-C PENDING AS SC NO. 200/2023 ARISING OUT OF CRIME NO. 132/2019 REGISTERED BY THE RESPONDENT NO.1 MANGALORE NORTH PS FOR THE OFFENCES P/U/S 143, 147, 148, 341,504, 506, 427, 353, 332, 307,120(b), 109 R/W 149 OF IPC AND SECTION 2(A), 2(B) OF THE KARNATAKA PREVENTION OF DESTRUCTION AND LOSS OF PROPERTY ACT, 1981 NOW PENDING ON THE FILES OF HONBLE VI ADDL. DISTRICT AND SESSION JUDGE, MANGALURU WHEREIN THE PETITIONER IS ARRYED AS ACCUSED NO.33.



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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

Heard the learned counsel Sri. Tahir, appearing for the petitioner, Smt. Asma Kouser, the learned Addl. SPP appearing for respondent No.1 and have perused the material on record.

2. The petitioner is before this Court, seeking the following prayers:

- "A. *To Set aside the entire proceedings in implication in SC No.200/2023 arising out of crime No.132/2019 at Annexure-D registered by the Respondent no.1 Mangalore North PS for the offences p/u/s 143, 147, 148, 341, 504, 506, 427, 353, 332, 307, 120(b), 109 R/W 149 of IPC and Section 2(A), 2(B) of the Karnataka Prevention of Destruction and Loss of Property Act, 1981 now pending on the files of Hon'ble VI Addl.District and Session Judge, Mangaluru, wherein the petitioner is arrayed as accused no.33;*
- b. *To Set aside the charge sheet dated 15.03.2020 at Annexure-c pending as SC no.*



200/2023 arising out of crime No. 132/2019 registered by the Respondent No.1 Mangalore North PS for the offences P/U/S 143, 147, 148, 341,504, 506, 427, 353, 332, 307,120(b), 109 r/w 149 of IPC and Section 2(A), 2(B) of the Karnataka Prevention of Destruction and Loss of Property Act, 1981 now pending on the files of Honble VI Addl. District and Session Judge, Mangaluru wherein the Petitioner is arryed as accused no.33."

3. Learned counsel appearing for the petitioner would submit that the issue in the *lis* stands covered by the judgment rendered by this Court in Crl.P.No.9444/2022 disposed on 01.04.2025, wherein it has held as follows:

"Petitioners, arraigned as accused Nos.79 to 86 in the charge sheet filed by respondent/Police in connection with Crime No.132/2019, of Mangaluru North Police Station in C.C.No.989/2020, before JMFC (II Court), Mangaluru, D.K. are before this Court seeking to quash the entire proceedings initiated against them.

2. *FIR is registered against 200-300 unknown persons on a su-moto complaint lodged by the police constable, Mangaluru North Police Station, Mangaluru. It is alleged that on 19.12.2019, at about 02:30 p.m., about 200 to 300 people were protesting against*



implementation of CAA and for the said purpose, they formed an unlawful assembly and assembled near a petrol bunk situated at Mission Street Cross and pelted stones etc., at the police and vehicles and caused injuries to the complainant etc.

3. *FIR was registered for offences Punishable under Section 143, 147, 148, 188, 341, 427, 353, 332, 307 read with Section 149 of IPC, Section 2(A), 2(B) of the Karnataka Prevention of Destruction and Loss of Property Act, 1981. While filing charge sheet, Section 188 of IPC was deleted. Charge sheet was filed against 87 accused.*

4. *Learned counsel for petitioners contended that this Court has allowed Crl.P.No.12779/2023 filed by similar accused and quashed the proceedings against them.*

5. *Learned High Court Government Pleader would contend that these petitioners gave speech and instigated other accused persons and they have been identified by the witnesses and therefore, there is a prima-facie case against them.*

6. *Admittedly 200 to 300 people had gathered at the place of incident and it is not made clear as to why the charge sheet was filed only against 87 accused leaving others. This Court while disposing of Crl.P.No.12779/2023 (supra) has taken into consideration the order passed in Crl.P.No.3916/2018, wherein it is observed that, mere presence of a person in*



an unlawful assembly cannot render a person liable unless there was common object and he was actuated by that common object and that object is one of those set out in Section 141 of IPC.

7. Para No.13 of the judgment rendered by the Hon'ble Apex Court in the case of **CHARAN SINGH AND OTHERS V/s. STATE OF U.P.** reported in **(2004) 4 SCC 205** relied in the above case, reads as follows:-

"13. Coming to the others who were armed with double-barrelled guns and country-made pistols, the question is regarding applicability of Section 149 IPC. Section 149 IPC has its foundation on constructive liability which is the sine qua non for its operation. The emphasis is on the common object and not on common intention. Mere presence in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141. Where common object of an unlawful assembly is not proved, the accused persons cannot be convicted with the help of Section 149. The crucial question to determine is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects, as specified in Section 141. It cannot be laid down as a general proposition of law that unless an overt act is proved against a person, who is alleged to be a member of an unlawful assembly, it cannot be said that he is a member of an assembly. The only thing required is that he should have understood that the assembly was unlawful and was likely to commit any of the acts which fall within the purview of Section 141. The word "object" means the purpose or design and, in



order to make it "common", it must be shared by all. In other words, the object should be common to the persons, who compose the assembly, that is to say, they should all be aware of it and concur in it. A common object may be formed by express agreement after mutual consultation, but that is by no means necessary. It may be formed at any stage by all or a few members of the assembly and the other members may just join and adopt it. Once formed, it need not continue to be the same. It may be modified or altered or abandoned at any stage. The expression "in prosecution of common object" as appearing in Section 149 has to be strictly construed as equivalent to "in order to attain the common object". It must be immediately connected with the common object by virtue of the nature of the object. There must be a community of object and the object may exist only up to a particular stage, and not thereafter. Members of an unlawful assembly may have community of object up to a certain point beyond which they may differ in their objects and the knowledge, possessed by each member of what is likely to be committed in prosecution of their common object may vary not only according to the information at his command, but also according to the extent to which he shares the community of object, and as a consequence of this the effect of Section 149 IPC may be different on different members of the same assembly."

8. *Admittedly, the petitioners are not named in the FIR. It is the case of prosecution itself that about 200 to 300 unknown persons had assembled at the place and they pelted stones at the police and vehicles and caused damage to the vehicles etc. This Court in Crl.P.No.12779/2023 disposed on 20.12.2023 has held that, the intention to commit murder and with that*



intention the accused threw soda bottles etc., at the police was not substantiated by any material produced along with the charge sheet.

9. *Even in the present case this Court finds that there is no material placed along with the charge sheet to establish that the petitioners have attempted to commit murder or threw stones etc., at police with that intention. In the FIR, descriptions of the accused who threw stones etc., at the police are not stated. Vague allegations are made that even the petitioners were present in the mob and they have abetted other accused persons. Hence, the criminal proceedings initiated against the petitioners is an abuse of process of law.*

10. *For the above reasons, the proceedings against the petitioners are liable to be quashed and accordingly, the following:*

ORDER

- i) *Petition is allowed.*
- ii) *The entire proceedings as against petitioners in C.C.No.989/2020 pending on the file of the Court of II-Mangaluru North Mangaluru is quashed, arising out of Crime No.132/2019 Mangaluru North Police Station and the consequent proceedings are hereby quashed.*



iii) *I.A.No.1/2022 is disposed of."*

4. In the light of the order passed by this Court (*supra*) and for the reasons aforementioned, the following:

ORDER

- (i) The Criminal Petition is allowed.
- (ii) The proceedings in S.C.No.200/2023 pending before the VI Additional District and Sessions Judge, Mangaluru, stand quashed, *qua* the petitioner.

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

AN/-