

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH
DATED THIS THE 24TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL PETITION NO. 201794 OF 2025
(482(Cr.PC)/528 (BNSS))

BETWEEN:

1. ATIKULLA HUSSAINI
S/O LATE SYED SHAH MAHMOOD HUSSAINI
AGED ABOUT 62 YEARS
OCC: AGRICULTURE
R/O DULHAN DARWAZA
KHAN KHA LALAN HUSSAINI
PATALNAGI BIDAR-585401.
2. AMIRULLA HUSSAINI
S/O LATE SYED SHAH MAHMOOD HUSSAINI
AGED ABOUT 67 YEARS
OCC: AGRICULTURE
R/O DULHAN DARWAZA
KHAN KHA LALAN HUSSAINI
PATALNAGI BIDAR-585401.
3. MUJAFAR
S/O ATIKULLA HUSSAINI
AGED ABOUT 37 YEARS
OCC: AGRICULTURE
R/O DULHAN DARWAZA
KHAN KHA LALAN HUSSAINI
PATALNAGI BIDAR-585401.
4. RASOOL
S/O MAHEMOOD KHAN
AGED ABOUT 57 YEARS
OCC: AGRICULTURE
R/O SHIVNAGAR BIDAR-585401.

5. SUDHAKAR PATIL
S/O GOPALRAO
AGED ABOUT 67 YEARS
OCC: AGRICULTURE
R/O DEVI COLONY
BIDAR-585401.

...PETITIONERS

(BY SRI. RAVI B. PATIL., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH NEW TOWN POLICE STATION
BIDAR-585401
REPRESENTED BY
ADDL. STATE PUBLIC PROSECUTOR
KALABURAGI-585107.
2. MALLIKARJUN
S/O GHALEPPA CHINKOTE
AGED ABOUT 51 YEARS
OCC: PRIVATE WORK
R/O OLD ADARSH COLONY
BIDAR-585401

...RESPONDENTS

(BY SRI. JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI. VARUN PATIL ADV., FOR R2)

THIS CRL.P IS FILED U/SEC. 482 OF CR.P.C (OLD) U/SEC. 528 OF BNSS (NEW), PRAYING TO QUASH THE FIR IN CRIME NO.0159/2023 REGISTERED BY THE RESPONDENT POLICE FOR THE OFFENCES U/S. 447, 427, 379 R/W 34 OF INDIAN PENAL CODE, CULMINATING IN C.C.NO.1492/2025 AND THE ORDER OF TAKING COGNIZANCE DATED 22.07.2025 BY THE COURT OF II ADDL. SENIOR CIVIL JUDGE AND JMFC AT BIDAR.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.03.2026, COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT MADE THE FOLLOWING:

CAV ORDER

This petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the FIR against the petitioners/accused Nos.1 to 5 in C.C No.1492/2025 (arising out of Crime No.159/2023 of New Town Police Station, Bidar), for the offence punishable under Sections 447, 427, 379 r/w 34 of IPC, and the order of taking cognizance dated 22.07.2025 pending on the file of II Addl. Senior Civil Judge & JMFC, Bidar.

2. The petitioners have filed this petition seeking following relief's:

"Wherefore the petitioners most humbly pray that the Hon'ble Court may kindly be pleased to quash the FIR in Crime No.159/2023 registered by the respondent Police for the offences under Sections 447, 427, 379 r/w 34 of IPC, culminating in C.C.No.1492/2025 and the order of taking cognizance dated 22.07.2025 by the Court of II Addl. Senior Civil Judge and JMFC, Bidar, in the interest of justice and equity."

3. Heard the learned counsel for the petitioners and the learned High Court Government Pleader for the respondent - State.

4. Learned counsel appearing on behalf of the petitioners would submit that the impugned proceedings initiated by the respondent jurisdictional police based on the alleged complaint is without holding proper investigation and is contrary to the material documents, same cannot be sustained either in law or on facts. Hence, the same is required to be set aside. He further submitted that the averments of the complaint reveals that the entire dispute is civil in nature relating to immovable property and its identification, however the jurisdictional police acting upon the said complaint has illegally registered the FIR in a civil disputes between the parties by giving colour of criminal proceedings. Therefore, the proceedings initiated as against the petitioners requires to be set aside. The co-ordinate Bench of this is Court, in Criminal Petition No.201571/2023 has made specific observation that jurisdictional police is required to investigate the matter by taking assistance of Surveyor for surveying the land and

sites to come to right conclusion as to whether the property of the complainant is within 01 acre of the land which was sold in favour of Vijaykumar by accused No.1. However, the respondent jurisdictional police without looking into the order passed by this Court and the observations made therein has proceeded to file a charge sheet without ascertaining the identity and location of the property so also without looking into the civil dispute pending before the competent Civil Court, touching the issue involved in the proceedings and has proceeded to file a charge sheet by mere recording the statement of few interested persons supporting the complainant. Therefore, the entire charge sheet filed by the respondent jurisdictional police do not reveal about the offence constituted by the complainant. Therefore, the order of cognizance taken by the jurisdictional Magistrate based on the charge sheet cannot be sustained and requires to be set aside. He further submitted that there is a civil dispute pending between the parties in O.S.No.269/2023 on the file of the Civil Judge and JMFC, Bidar and the dispute relates to the identity and location of the subject matter as

claimed by the complainant invoking of criminal proceedings making false allegation against the petitioners in collusion with the officials of the respondent jurisdictional Police requires to be set aside. Accordingly, sought for allowing of the petition. To substantiate his arguments, he relied upon the following decisions:

- (a) ***Ranadheer Singh Vs. State of U.P.*** in Criminal Appeal No.932/2021 arising out of SLP (Crl.) No.1190/2021.

5. *Per contra*, learned High Court Government Pleader appearing for respondent-State opposed to the petition.

6. I have examined the materials placed before this Court.

7. On the basis of the complaint filed by Mallikarjun, the New Town Police, Bidar, have registered the case in Crime No.159/2023 against the accused Nos.1 to 5 for the offence under Sections 447, 427, 379 r/w 34 IPC. The Co-ordinate Bench of this Court dismissed the petition filed by the present petitioners in Criminal Petition No.201571/2023 vide order dated 09.08.2024. After

investigation, the Investigating Officer has submitted the charge sheet against the accused for the offence under Sections 447, 427 r/w 34 IPC. The petitioners have filed this petition seeking to quash the proceedings in C.C.No.1492/2025. After investigation, the Investigating Officer has recorded the statement of eyewitnesses CWs.4 to 6 and conducted panchanama. Thereafter, submitted the charge sheet against the accused for the alleged commission of aforesaid offences. In paragraph No.17 of the charge sheet, it is stated as under:

"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಮಾನ ಘನ ನ್ಯಾಯಾಲಯದ ಮತ್ತು ಬೀದರ ನೂತನ ನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಬೀದರ ಸಾಹೇಬ್ ಲೇಔಟದ ಸವರ್‌ರ್ ನಂ-59/1 ರಲ್ಲಿ ಒಂದು ಪ್ಲಾಟ್ ನಂ-36 ನೇದನ್ನು ಸಾಕ್ಷಿ ನಂ-1 ರವರು ಖರಿದಿ ಮಾಡಿ ನೊಂದಣಿ ಮಾಡಿಸಿಕೊಂಡಿದ್ದು ಅದರ ನೊಂದಣಿ ಸಂಖ್ಯೆ 2128/2007-08 ಇರುತ್ತದೆ. ಪ್ಲಾಟಿನ ನೊಂದಣಿ ಮಾಡಿಸಿಕೊಂಡ ನಂತರ ಸಾಕ್ಷಿ ನಂ-1 ರವರ ಬೀದರ ನಗರಸಭೆಯಲ್ಲಿ ಅದರ ಮುಟೀಶನ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ.

ನಂತರ ಸಾಕ್ಷಿ ನಂ-1 ರವರು ಸದರಿ ಪ್ಲಾಟಿನಲ್ಲಿ ಮನೆ ಕಟ್ಟಲು ಪ್ರಾರಂಭಿಸಿದ್ದು, ದಿನಾಂಕ 25/09/2023 ರಂದು ಸಾಯಂಕಾಲ 6:30 ಪಿ.ಎಮ್ ಗಂಟೆಯಿಂದ 7:30 ಪಿ.ಎಮ್ ಗಂಟೆಯ ಅವಧಿಯಲ್ಲಿ ಸಾಕ್ಷಿ ನಂ-1 ರವರು ಅವರ ಪ್ಲಾಟಿನ ಬಳಿ ಇದ್ದಾಗ ಅದೇ ಸಮಯಕ್ಕೆ ಈ

ದೋಷಾರೋಪಣೆ ಪತ್ರದ ಕಾಲಂ ನಂ-12 ರಲ್ಲಿ ನಮೂದು ಮಾಡಿದ ಆರೋಪಿತರು ಸದರಿ ಸ್ಥಳಕ್ಕೆ ಬಂದು ಪ್ಲಾಟಿನಲ್ಲಿ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ನಂತರ ಎಲ್ಲರೂ ಕೂಡಿಕೊಂಡು ಮನೆಯ ಪಿಲ್ಲರ್ ಹಾಕುವ ಸಲುವಾಗಿ ಅಗದ ಗುಂಡಿಯಲ್ಲಿ ಮರಳು ಹಾಕಿ ಮುಚ್ಚಿ ಆಂದಾಜು, ರೂ-1,11,185/- ಗಳನ್ನು ಲುಕ್ಸಾನ ಮಾಡಿರುತ್ತಾರೆ.

ಆರೋಪಿತರು ಕಾಯ್ದೆ ಕಲಂ 447,427 ಜೊತೆ 34 ಐಪಿಸಿ ಪ್ರಕಾರ ಅಪರಾಧವೆಸಗಿರುವುದು ಕೇಸಿನ ತನಿಖೆಯಿಂದ ಧೃಢಪಟ್ಟಿದ್ದು ಕಾರಣ ಸದರಿ ಆಪಾದಿತರ ವಿರುದ್ಧ ಈ ದೋಷಾರೋಪಣೆ ಪತ್ರ ತಯಾರಿಸಿ ಸಲ್ಲಿಸಲಾಗಿದೆ.”

8. The petitioners have produced the copy of the plaint pertaining to O.S.No.269/2023 filed by Sayeda Khatoon W/o: Late Syed Shah Mahemood Hussaini, against Mallikarjun S/o: Ghaleppa Chinkote, seeking for permanent injunction in respect of land bearing Sy.No.59/1 totally measuring 24 acres and 21 guntas situated at Aliyabad-J, Tq & Dist: Bidar. The dispute in the present case is with regard to Sy.No.59/1 bearing Plot No.36 which was registered bearing No.2128/2007-08. On the basis of the plaint, at this stage, it is not just and proper to come to the conclusion that the proceedings initiated against the accused are not sustainable at all. Only after full-fledged trial, the arguments advanced on

behalf of the petitioners may be considered by the trial Court. Hence, I do not find any grounds to quash the proceedings. Accordingly, I proceed to pass the following:

ORDER

The petition is ***dismissed***.

**Sd/-
(G BASAVARAJA)
JUDGE**

msr