



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 202013 OF 2025

(482(Cr.PC)/528(BNSS))

BETWEEN:

ABDUL KHAVEE S/O. KHAJI SHEKH BURANODDIN
AGE 40 YEARS, OCC. KIRANA BUSINESS,
R/O H NO. 5-993/92, MAHEBOOB NAGAR,
KALABURAGI DIST KALABURAGI-585101.

...PETITIONER

(BY SRI ASHOK MULAGE, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH CHOWK POLICE STATION,
KALABURAGI DIST KALABURAGI-585101.
REP/BY ADDL. SPP
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH.
2. SRI MOHAMMED ALIUDDIN @ ALI BABA
S/O. MOHAMMED NAYEEMUDDIN JUNAIDI
AGE 34 YEARS, OCC. LAW PRACTITIONER
R/O. H. NO.9-590, SHAIK ROZA DARGA,
KALABURAGI, DIST KALABURAGI-585102.

...RESPONDENTS

(BY SRI GOPAL KRISHNA B. YADAV, HCGP FOR R1;
R2 SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. (OLD), U/SEC.
528 OF BNSS (NEW), PRAYING TO ALLOW THE PETITION AND

Digitally signed by
SHIVALEELA
DATTATRAYA
UDAGI
Location: HIGH
COURT OF
KARNATAKA



SET ASIDE THE ORDER OF TAKING COGNIZANCE AND ISSUANCE OF SUMMONS DATED 13.06.2022 ON THE FILE III ADDL. JMFC KALABURAGI AND QUASH THE ENTIRE CHARGE SHEET IN C.C.NO.12380/2022 ARISING OUT OF CRIME NO. 139/2021 OF CHOWK PS KALABURAGI FOR THE OFFENCE PUNISHABLE U/SEC. 67 OF I.T. ACT AGAINST THE ACCUSED/ PETITIONER IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to set aside the order of cognizance dated 13.06.2022 and to quash the charge-sheet in C.C.No.12380/2022, arising out of Crime No.139/2021 of Chowk Police Station, Kalaburagi, for the offence punishable under Section 67 of the Information Technology Act, 2008 (for short, 'the I.T.Act'), pending on the file of III-Addl. Civil Judge and JMFC, Kalaburagi.

2. The abridged facts of the case are that, respondent No.2, lodged a complaint before the 1st respondent-Police on 13.11.2021 alleging that, the he is resident of Shaikh Roza Dargah, Kalaburagi and his



brother-Mohd.Allauddin Junaidi @ Gouse Baba has constructed a N.J.Kalaburagi Kalyana Mantapa near Aland Check Post road, Kalaburagi. For inaugural ceremony of said Kalyana Mantapa, held on 15.11.2021, the brother of respondent No.2 invited Hindu and Muslim religious leaders along with the political leaders.

3. On 13.11.2021 at about 07.00 p.m. when the respondent No.2 and his brother were near the Kalyana Mantapa, he received a whatsapp message in his mobile No.9844787861 from the petitioner. In the said message the petitioner has made defamatory statement, stating that, respondent No.2 and his brother should not have invited Hindu priests for the inauguration, since those Hindu priests treated Muslims very badly and they are born for doing pooja only. It is also stated that, they does not give respect the community who believes in Allah. Hence, the complainant has lodged the complaint against the petitioner before the 1st respondent-police on 13.11.2021, which was registered in Crime No.139/2021



for the offence punishable under Section 67 of I.T. Act. Thereafter, the 1st respondent-Police have conducted the investigation and laid charge-sheet against the petitioner for the aforementioned offence. Hence, this petition to quash the proceedings.

4. Heard learned counsel for the petitioners and learned High Court Government Pleader for respondent No.1-State.

5. Learned counsel for the petitioner reiterating the grounds urged in the petition averments contended that, the entire allegation in the complaint was taken on its face value, the offence under Section 67 of I.T.Act does not attract against the petitioner. Hence, he prays to allow the petition.

6. Learned High Court Government Pleader opposed the prayer stating that, now the investigation has been completed and charge-sheet has been laid against



the accused. Hence, the proceedings cannot be quashed. Accordingly, prays to dismiss the petition.

7. I have given my anxious consideration on the submission made by the learned counsel for the respective parties and perused documents available on record.

8. As could be gathered from the complaint averments, it is stated that the complainant has received the whatsapp message on 13.11.2021 at about 07.00 p.m. from the mobile number of the petitioner as under:

"Baba Mujhe ittela mili ke aap uss kam zarf insaan gouse kan kalburgi kaliyaan mandap ki oppning mein jare jo alkal bahut zaleel o khar hogya so hai tamam Gulbarga ki awan uss per lanat bhejre aur thukre mujhe ye sab nahi kehna chaiye per aap mere sarke Taj hai isliye quzarish karrun baba wahan gaye tu appka wiqar kam hota ager kehne mein kuch ghalti hwui ho tu mazirat chahata houn usko ye bhi nai maloom ke sabebun se kasia baat kiya jata un non muslims mein rahe so hai pooja pat maloom usko srif mattu un non muslims k sath he bada how'a hai aur marega bhi un hi k sath pooja pat maloom usko srif allah waloon ka adab lihaz nahi janta un".



9. On careful examination of the above whatsapp message, the same reveals that the petitioner has questioned the presence of Hindu religious priests in the inaugural ceremony of the function hall by stating that, they treated Muslims very badly and also didn't respect them.

10. The Section 67 of the I.T.Act, reads as follows:

"67. Punishment for publishing or transmitting obscene material in electronic form. -

Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees."

11. On careful perusal of the above provision, it is clear that the petitioner has not sent any such obscene messages, neither published nor transmitted any obscene



messages to the complainant. The ingredients of Section 67 of the I.T.Act, does not attract in the case on hand. In such circumstances, even if a trial is conducted against this petitioner, it is a futile exercise.

12. As such, after considering the entire allegation taken on its face value, no offence has been made out against the petitioner, which he has been charge sheeted. In such circumstances, I am of the considered view that, the continuation of proceedings is nothing but abuse of process of Court and same is liable to be quashed.

13. Accordingly, the petition is ***allowed***.

14. The order of taking cognizance and issuance of summons dated 13.06.2022 on the file of III-Addl. Civil Judge and JMFC, Kalaburagi is set aside.

15. The charge-sheet in C.C.No.12380/2022, arising out of Crime No.139/2021 of Chowk Police Station, Kalaburagi, for the offence punishable under Section 67 of the Information Technology Act, 2008 (for short, 'the



NC: 2026:KHC-K:1065
CRL.P No. 202013 of 2025

I.T.Act'), pending on the file of III-Addl. Civil Judge and
JMFC, Kalaburagi, is hereby quashed.

Sd/-
(RAJESH RAI K)
JUDGE

SDU
LIST NO.: 1 SL NO.: 20
CT:RJ