

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE COMPLAINT DATED 15.12.2012 LODGED BY THE SECOND RESPONDENT BEFORE THE FIRST RESPONDENT VIDE ANNEXURE-'A' FIR REGISTERED BY THE 1ST RESPONDENT ON 15.12.2012 IN CR.NO.285/2012 IN YALAHANKA P.S., BENGALURU VIDE ANNEXURE-B, CHARGE SHEET FILED BY THE FIRST RESPONDENT IN C.C.NO.8576/2013 BEFORE THE C.M.M., BENGALURU ON 03.06.2013, VIDE ANNEXURE-'D' TO THIS PETITION.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.04.2022 THIS DAY, THROUGH VIDEO CONFERENCING THE COURT MADE THE FOLLOWING:

ORDER

Crl.P.No.4770/2015 is filed by the petitioner-accused under Section 482 of Cr.P.C. for quashing the criminal proceedings in C.C.No.34180/2014 pending on the file of CMM, Bengaluru for the offence punishable under Section 500 of IPC based upon the complaint in PCR No.2023/2012.

2. Crl.P.3751/2013 is filed by the same accused No.1 under Section 482 of CR.P.C. for

quashing the criminal proceedings in C.C.No.8576/2013 pending in the court of CMM, Bengaluru, with respect to Crime No.285/2012 registered by the Yelahanka Police Station for the offences punishable under Sections 306, 504, 506, 499, 500 of IPC.

3. Heard the arguments of learned Counsel for the petitioner and respondent as well as learned HCGP for the State.

4. The case of the petitioner in Crl.P.No.3751/2013 is that the respondent No.2 filed complaint to the Yelahanka Police Station, in turn they registered case in Crime No.285/2012 where he has alleged the Petitioner was engaged in business activities in real estate business in the name of M/s. Unnathi Projects Ltd., and he is also involved in social service activities through 'Navachetana Trust'. Respondent No.2 who is an employee of the petitioner

after real estate business, they were also involved in 'Navachethana Trust' and in the course of the real estate business respondent No.2 had offered to negotiate with the owners of the land in Sy.No.176/2 and 169/ 3 of Kodigehalli village for the purchase, either in the name of 'Unnathi Projects' or it's nominee. It is alleged by the complainant that his wife-Sumana had attempted to commit suicide by hanging on 16.08.2012 and despite treatment she has passed away on 17.08.2012 in Columbia Asia hospital.

A UDR was registered by the police and stated that the accused Srinivasaraju who had encroached the government land in Sy.No.101/2 of Kodigehalli Village the complainant has lodged the complaint to Lokayukta and also to BBMP Commissioner, BDA, for taking action. The said Srinivasaraju accused No.1 used to make frequent telephone calls to his wife and threatening and blackmailing her and he had filed

several complaint in the police station. He had informed the accused that his wife is sensitive and she has gone into depression because of his phone calls. Despite the same the petitioner kept calling her and threatening her. Her condition became worst and therefore she was taken to Manasa Hospital, Shivamogga and treated. In pursuance of the order of the DCP and his representation to the Tahsildar to conduct the inspection on the illegal encroachment by the accused No.1, constructing the Vyas International School building on the government land. He had pursued the matter by filing the representation before the DCP and Enforcement Cell and recently on 27.07.2012 gave interview in TV9 channel that in the course of interview he has called this respondent No.2 as 'Punda Pokri' without any justification. This was seen by his wife in the TV channel and many of his friends and relatives and other several people called

himself and his wife and enquired about the episode which was causing mental anguish to him as well as his wife and his wife being sensitive went into depression and the complainant also caused the legal notice to the petitioner on 02.08.2012 and he has no reply for that. His wife was extremely worried and mentally weak and attempted to commit suicide on 16.08.2012 accordingly she was taken to hospital and there she died. The accused thereby abetted his wife to commit suicide because of the TV episode which was published in TV9 against this respondent No.2. He also contended that the petitioner also threatening him with dire consequences and the respondent also gave complaint to the police commissioner on 02.10.2012. The same was forwarded to the Silver Jubilee Park Police Station and they have advised to file complaint to the Yelhanka Police. Accordingly he has filed complaint which is under challenge.

5. In Crl.P.No.4770/2015, the same accused challenged private complaint filed by the respondent herein wherein on the similar allegation made in the first case as the respondent filed a complaint against petitioner in various Departments for illegal encroachments and he has given a statement in TV News channel referring the complainant as 'Punda Pokri' which caused insult and defamed his prestige in the public. Therefore, he has filed private complaint which was taken cognizance by the trial court for the offence under section 500 of IPC, which is under challenge.

6. The learned counsel for the petitioner has contended that the petitioner is innocent of the alleged offence. He has been falsely implicated. Even though the petitioner had legally purchased the property and constructed the same is considered in a

writ petition before the Division Bench of the High Court where it was held that there is no encroachment of the public property. In spite of the same, the respondent making allegation against the petitioner about illegal encroachment over the government property and when the same was questioned by the TV channel people, he has casually stated that some 'Punda Pokri made complaint against him and does not mean to insult the complainant and there is no defaming the prestige of the complainant and if any word uttered by the accused in the TV channel which was published, it was only after 15 days the wife of the complainant had committed suicide i.e., on 16.08.2012. Therefore, there is absolutely no proximity of time and abatement of suicide by the petitioner and even if any word uttered against the complainant, committing of the suicide by wife of the complainant is not acceptable one. That apart if

anything is provoked that is by TV9 Channel but not the petitioner. The mother-in-law of the complainant, that is mother of the deceased Sumana already stated before UDR No.38/2012 of 12 was registered. Even on the complaint of the respondent the police Commissioner referred the complaint to the Silver Jubilee Park police. In turn Silver Jubilee Park Police also stated that no such evidence is available for taking action against the petitioner. Such being the case, filing the complaint by the complainant after four months of the incident is not acceptable and therefore the criminal proceedings is liable to be quashed. The same contention was taken by the petitioner counsel in the second case that taking cognizance in the offence punishable under Section 500 of IPC is not sustainable as there is no words uttered to defame the respondent-complainant, therefore liable to be quashed.

7. Per contra learned counsel for respondent objected the petition by filing the objections and contended that the petitioner encroached the property of the Government he was putting the construction, the same was brought to the notice of the public authorities and they have not taken any action and for taking revenge against the respondent the petitioner was making frequent calls to the respondent as well as his wife which caused mental torture and depression. Therefore when the accused given a statement in the TV9 News channel referring the complainant as 'Punda Pokri' which was caused much disturbance to the mind of the wife, therefore she has committed suicide on 16.08.2012. The mother-in-law do not know about the dispute between the complainant and the petitioner therefore she has not suspected the death. But that UDR investigation is not yet completed, in the meanwhile the complainant

has filed complaint to the police commissioner on 02.10.2012 the same is referred to S.I. Park police where the S.I. park police, after making preliminary enquiry have advised to make file complaint before the Yelahanka Police, therefore he has filed to the Yelahanka police and further contended that the word uttered by the accused has defamed and got bad name in the eye of the public and it caused mental depression to his wife as she was very sensitive, therefore she has committed suicide and it cannot be considered that there is no ingredients of abetment of suicide by the accused persons. Therefore the police after investigation filed the charge sheet and contended that the matter requires for trial and petitioner not entitled for any relief prayed under Section 482 of Cr.P.C. Hence prayed for dismissing the petition.

8. Having heard the arguments and perused the records, which reveals it is an admitted fact, the petitioner and the complainant were known to each other and previously the complainant had worked with petitioner and there was a criminal case filed against the respondent for 406 and 420 of IPC which had ended in acquittal and subsequently the respondent alleged that the petitioner encroached the Government Land and constructed the building for his school and one of the petitioner filed before the Division Bench of this High Court where the Division Bench has held no such encroachment is found in the said construction. The matter has attained finality in W.P.No.10290-91/2009 dated 12.11.2010. However, this respondent was not the petitioner in the said writ petition but it was filed by some R.Venkatesh and S.Shivakumar . However, the cold war was continuing between the petitioner and respondent until 2012 and

when the TV9 channel people went and interviewed with the accused-petitioner, wherein he has referred the complainant as 'Punda Pokri', that was published in the news channel and so many people asking the complainant and his wife about the episode published in the TV channel that had caused depression to his wife. It is also contended that the accused was always making phone calls to the wife of the complainant and threatening her and also called to the respondent and threatened him. In this regard, some CDR also produced by the prosecution to show there was phone call made to the wife of the complainant. It is an admitted fact on 16.08.2012 the wife of the complainant attempted to commit suicide and she was shifted to Columbia Asia Hospital where she was declared as dead on 17.08.2012. It is also an admitted fact, the mother-in-law of the complainant that is mother of the deceased has stated that, no

doubt about the death of her daughter. Therefore a UDR was registered by Yelahanka Police. However, the complainant lodged complaint to the Commissioner of Police on 02.10.2012 making so many allegations against the petitioner for abatement of committing suicide, the Police Commissioner referred the matter to the SJ Park Police where there after preliminary enquiry they advised the complainant to approach Yelahanka Police. Accordingly the complainant came to be filed belatedly on 15.12.2012. The delay has been properly explained by the complainant in his complaint. The Yelahanka Police after due investigation have filed charge sheet. Therefore, at this stage this Court cannot go into the appreciation of document on merits without there being a trial. No doubt, the learned counsel for the petitioner submits, merely mentioning 'Punda Pokri' is not an offence or it cannot abate the wife of the

complainant to commit suicide and it will not defame the complainant in the eye of the public, but it all depends upon how they pursue the matter. If somebody scolds or blames by using abusive and filthy languages, some people may not take it seriously but some people take it as very seriously, who are sensitive people. Therefore, the perception of threatening word differs from person to person. Hence, at this stage it cannot be said that 'word' will not defame the complainant without going for the trial. Therefore, the contention of the petitioner counsel cannot be acceptable that the word 'Punda-Pokri' will not attract Section 500 of IPC.

9. That apart the Court cannot take a stale sentence and hold there is no abetment of suicide it is a fact, whereas so many fact has to be considered for the purpose of attracting section 107 of IPC for abetment of suicide. It is not in dispute, the wife of

the accused committed suicide. There was frequent phone call made by the accused to the wife of the complainant and the same was intimated by her to the husband. Even the accused also made so many phone calls to the complainant. There was Cold War between them and finally the accused defamed her husband in the eye of public in the TV9 channel which was published throughout the world which was viewed by so many people and they are calling the wife of the complainant about damaging and defaming word by the petitioner which might have enraged or abated to commit suicide. Therefore at this stage, without going for trial this Court cannot appreciate or re-appreciate any documents and evidences for the purpose of exercising power under section 482 of Cr.P.C. Therefore in my considered opinion both the matters require trial and if at all the petitioner is having any defense he is permitted to take all contentions before

the Trial Court. Therefore, this Court cannot quash the criminal proceedings against the petitioner at this stage.

Accordingly both Criminal Petition No.4770 of 2015 and Criminal Petition No.3751 of 2013 are hereby dismissed.

**Sd/-
JUDGE**

AKV