

P.M. Lokanath vs State Of Karnataka on 6 February, 2025

Author: B.R. Gavai

Bench: B.R. Gavai

2025 INSC 202

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2514 OF 2014

P.M. LOKANATH AND OTHERS

...APPELLANT(S)

VERSUS

STATE OF KARNATAKA AND ANOTHER

...RESPONDENT(S)

JUDGMENT

B.R. GAVAI, J.

1. The present appeal challenges the judgment and order dated 14th November 2013 passed by a learned Single Judge of the High Court of Karnataka at Bangalore in Criminal Petition No. 3850 of 2010, whereby the High Court has dismissed the petition filed by the present appellants under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) praying thereby to quash proceedings registered in C.C. No.29027 of 2010 pending on the file of IIIrd Additional Chief Metropolitan Magistrate, 17:29:36 IST Reason:

Bangalore (for short, “ACMM, Bangalore”).

2. A perusal of the materials placed on record would reveal that there is a longstanding dispute between the appellants on one hand and respondent No.2 and his brothers/sisters on the other hand. The appellants are the absolute owners and in actual possession and enjoyment of the property bearing No.13 situated at Subbanna Char Lane, 2nd Cross, Cottonpet, Bangalore, Karnataka (hereinafter referred to as the “suit property”). The suit property has fallen to the appellants on account of them being the legal heirs of one Smt. K. Janakamma. Respondent No.2 and his siblings are the legal heirs of one Shri Narasimha Murthy, who was a party to the sale deed executed on 16th November 1953 whereby the suit property was sold to said K. Janakamma.

3. It appears that respondent No.2 and his siblings thereafter attempted to encroach upon the

appellants' suit property and as such the appellants filed a civil suit being O.S. No.11107/2016 in Court of Principal City Civil and Sessions Judge at Bangalore seeking a decree of permanent injunction to prohibit respondent No.2 and his siblings from interfering with the lawful possession and enjoyment of the suit property. In the said suit, an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, "CPC"), also came to be filed by the appellants. In the said proceedings, the learned Principal City Civil and Sessions Judge, Bangalore, vide the judgment and order dated 19th December 2006, granted temporary injunction in favour of the appellants restraining respondent No.2 and his siblings from encroaching upon any portion of the suit/schedule property and from changing katha of suit property.

4. It further appears that the appellants thereafter filed another civil suit being O.S. No.1943/2008 in the Court of City Civil Judge at Bangalore for declaration of ownership of the suit property.

5. On 25th November 2008, respondent No.2 however lodged an FIR under Sections 448 and 506 of the Indian Penal Code, 1860 (for short, "IPC") alleging therein that the appellants had threatened respondent No.2 to withdraw the civil suits. In the said FIR, it was further alleged that respondent No.2 was threatened by the appellants that in case he does not withdraw the civil suits, he will meet with the dire consequence of his death.

6. On the basis of the FIR lodged by respondent No.2, an investigation was carried out and a chargesheet was filed by the PSI of Cottonpet Police Station on 24th March 2010.

7. On 26th June 2010, the ACMM, Bangalore took cognizance and issued summons to the appellants herein.

8. Being aggrieved thereby, the appellants approached the High Court praying to quash the criminal proceedings. The learned Single Judge of the High Court, though noticed that there was a longstanding civil dispute between the parties, refused to quash the proceedings and dismissed the criminal petition under Section 482 of the Cr.P.C.

9. Being aggrieved thereby, the appellants filed the present appeal by way of special leave. While issuing notice, this Court by an order dated 8th May 2014 stayed the proceedings before the trial court for three months. By an order dated 28th November 2014, while granting leave, the interim order of stay was made absolute by this Court.

10. We have heard Shri Anand Sanjay M. Nuli, learned Senior Counsel appearing for the appellants and Shri V.N. Raghupathy, learned counsel appearing on behalf of the State of Karnataka. Though respondent No.2 has been duly served, no one has entered appearance on his behalf.

11. We are informed by the counsel for the parties that appellant No.2 (accused No.2) has died during the pendency of the proceedings. The appeal, therefore, stands abated qua appellant No.2.

12. Shri Nuli submits that the proceedings are totally mala fide. He further submits that it is the appellants who have filed the civil suits and, therefore, there is no question of respondent No.2

being threatened by the appellants to withdraw the suits. He further submits that respondent No.2 is in the habit of filing false cases as is evident from the material placed on record. He, therefore, prays for the quashing of the chargesheet and the criminal proceedings arising therefrom.

13. Per contra, Shri Raghupathy, learned counsel appearing for the respondent-State has vehemently opposed the present appeal.

14. From the perusal of the record, it is clear that it is the appellants, who have filed two civil suits, i.e. one for permanent injunction and the other for the declaration of the ownership of the suit property.

15. In the suit for permanent injunction, an order under Order XXXIX Rules 1 and 2 of the CPC has been passed by the Principal City Civil and Sessions Judge, Bangalore on 19th December 2006, thereby restraining respondent No.2 and his siblings from interfering with the physical possession of the appellants.

16. It is thus clear that the allegations in the FIR are totally absurd. When respondent No.2 has not filed any suit, there is no question of appellants threatening him of dire consequences if he does not withdraw the suit. It further appears from the record that respondent No.2 is in the habit of filing false cases against the appellants and his family members.

17. It can further be seen that in another criminal Case being No. 6969 of 2007 on the file of ACMM, Bangalore filed by respondent No.2, there are similar allegations that the appellants and his relatives were threatening respondent No.2. The learned ACMM, Bangalore, vide judgment and order dated 29th March 2008, after considering the evidence placed on record found that the allegations made by respondent No.2 were totally false and the appellants were, therefore, acquitted.

18. Further, in another criminal case being P.C.R. No.9345 of 2009 (in Crime No.245 of 2009) on the file of ACMM, Bangalore filed by the brother of respondent No.2 against the appellants alleging that the sale deed on the basis of which the appellant claimed title, and the suit are fraudulently executed. The appellants herein had challenged the initiation of the said criminal proceedings before the High Court, praying for quashing of the said proceedings. After perusal of the material placed on record, learned Single Judge of the High Court of Karnataka at Bangalore, vide the judgment and order dated 8th September 2009, found that the proceedings initiated were not sustainable and, therefore, quashed the criminal proceedings qua that criminal case.

19. We are, therefore, of the considered view that respondent No.2 and his relatives are in the habit of filing false and malicious cases against the appellants only on account of long-standing civil dispute pending between them.

20. This court in the case of State of Haryana and Others v. Bhajan Lal and Others¹ has held that the High Courts in 1992 Supp (1) SCC 335 exercise of extraordinary power under Article 226 of the Constitution of India or inherent powers under Section 482 of the Cr.P.C. can prevent abuse of process of any court or otherwise secure ends of justice. This Court in paragraph 102 of the said case

provided the following categories:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

21. This Court, however, gave a note of caution that such powers should be exercised very sparingly and with circumspection and that too in rarest of rare cases.

22. We are therefore of the considered view that the present case would squarely fall under points 1, 3, 5 and 7 of paragraph 102 of the aforesaid categories provided by this Court in the case of Bhajan Lal (supra).

23. The initiation of criminal proceedings at the instance of respondent No.2 in the present case is totally activated by mala fide, instituted with an ulterior motive for wreaking vengeance and with a view to spite the appellants.

24. We, therefore, find that the continuation of the criminal proceedings against the appellants would be nothing else but an abuse of the process of law.

25. The appeal is, accordingly, allowed. The impugned judgment and order dated 14th November 2013 passed by the learned Single Judge of the High Court of Karnataka at Bangalore, is quashed and set aside. The chargesheet registered as C.C. No. 29027/2010 before the Court of IIIrd Additional Chief Judicial Magistrate, Bangalore, the order dated 26th June 2010 issuing summons to the appellants and the subsequent proceedings arising therefrom, are also quashed and set aside.

26. Pending application(s), if any, stand(s) disposed of.

.....J. (B.R. GAVAI)J. (K. VINOD CHANDRAN) NEW DELHI;

FEBRUARY 06, 2025.