

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF DECEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.5417 OF 2021

BETWEEN

SMT HAJEERA ASMA
W/O. MOHAMMED FAZLUR RAHAMAN,
R/AT NO. 02, B-STREET,
BALLAPPA GARDEN, TASKER TOWN,
SHIVAJINAGAR, HKP ROAD,
BANGALORE NORTH - 560 051.

ALSO R/AT NO. P544,
WASI BLDG, A1 NAHDA 2,
DUBAI.

... PETITIONER

(BY SRI SYED PEER ULLA SHA KHADRI, ADVOCATE)

AND

STATE BY EAST CEN CRIME POLICE STATION
EAST SHIVAJI NAGAR,
BENGALURU,

REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT,
BANGALORE - 560 001

... RESPONDENT

(BY SRI R.D. RENUKARADHYA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C. PRAYING TO QUASH THE FIR AND COMPLAINT
REGISTERED IN CR.NO.38/2021 OF EAST C.E.N. CRIME POLICE
STATION, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS
67, 67(B) OF I.T ACT, PENDING ON THE FILE OF THE I ACMM,

BANGALORE IN PURSUANCE OF THE SAID COMPLAINT BY THE RESPONDENT POLICE BY ALLOWING THIS PETITION.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner-accused under Section 482 of Cr.P.C. for quashing the FIR in Crime No.38/2021 registered by the East C.E.N Crime Police Station, Bengaluru for the offences punishable under Sections 67 and 67(B) of the Information Technology Act, 2000 (for short 'I.T. Act')

2. Heard the arguments of learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

3. The case of the prosecution is that the Cyber Crime Police registered a FIR suspecting the petitioner showing as accused on 16.01.2021 alleging that, out of the phone number belongs to this petitioner, a nude Videograph was uploaded in the internet. The information sought by them through Service Providers. They came to

know that the SIM card is said to be issued in the name of this petitioner in the given address at Bengaluru. After registering the case, the Police have said to be started investigation and one of the suspected accused by name Mohammed Taha who has obtained anticipatory bail in CrI.P.No.2215/2021, dated 16.06.2021 and the matter is under investigation and this petitioner filed this petition challenging the very registering the FIR in her name.

4. Learned counsel for the petitioner has contended that in the complaint, in the subject matter, the name of this petitioner is not mentioned and it is mentioned as Midula S/o Muralidharan and the petitioner is not at all residing at Bengaluru. She is at Dubai for last 13 years, therefore, the question of purchasing SIM card by her at Bengaluru does not arise. If somebody used the phone and purchased the SIM card in her name, then she is not responsible for the same. Therefore, continuing the investigation against the petitioner is abuse of process of law. Hence, prayed for quashing the same.

5. *Per contra*, learned High Court Government Pleader objected the petition and contended that in the subject mentioned in the complaint, there is mistake committed by the Police during the cut and paste method in the computer where one more case has been registered against Midula S/o Muralidharan. But the entire body of the complaint and the SIM card belongs to the petitioner by mobile phone No.9663747801. Her address is mentioned as Shivajinagar, Bengaluru. Therefore, the learned High Court Government Pleader submits that the petitioner is required for investigation. If the police found that if the SIM card is misused by another accused by name Mohammed Taha, the police will file charge-sheet against him. But the petitioner is very much required for investigation to confirm whether the SIM card obtained by her or not or she has purchased or given to some other person or not which has to be investigated. Hence, prayed for dismissing the petition.

6. Having heard the arguments and on perusal of the records, the allegation is there is a nude videograph uploaded in the internet through the mobile phone No.9663747801 and on verifying the Service Provider, it was revealed that the petitioner is the SIM card owner and it appears somebody using the same. Now, the police are required to be investigate whether the SIM card purchased by this petitioner herself or not or the same was purchased by Mohammed Taha and he has misused her name by producing her photograph or not, it has to be investigated by the police. If at all, the petitioner appeared for the investigation and confirmed whether she has not purchased the SIM card, the same was misused or created document by some other person in her name, then the police can file the charge-sheet against those persons by deleting her name. Merely the name of the petitioner appeared in the FIR, that itself cannot be construed as she is the main culprit, but, she is only a suspected accused. Therefore, the police are at liberty to file charge-sheet against the original/actual accused persons. Therefore, the

presence of this petitioner is required for the purpose of investigation.

7. Accordingly, the petition is ***dismissed***. However, liberty granted to the petitioner to approach this Court, if so required.

**Sd/-
JUDGE**

GBB