

Reserved on : 25.06.2025
Pronounced on : 08.07.2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.8596 OF 2024

BETWEEN:

ABHISHEK MISHRA

... PETITIONER

(BY SMT.MONICA PATIL, ADVOCATE)

AND:

1 . STATE OF KARNATAKA
BY CHANDRA LAYOUT
POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU – 560 001.

2 . PINKI SHARMA

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;
SRI M.B.RAVI KUMAR, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO 1. QUASH THE ENTIRE PROCEEDINGS IN SPL.C.NO.1029/2024 PENDING ON THE FILES OF THE COURT OF LXX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, SPECIAL JUDGE BENGALURU AND CONSEQUENTLY QUASH THE ORDER OF COGNIZANCE DATED 20.06.2024 FOR THE OFFENCES P/U/S 354-D, 354-C, 504, 506, 509 OF IPC AND SEC.3(2)(v) OF SC/ST (POA) ACT 1989 AND SEC.66-E OF THE INFORMATION TECHNOLOGY ACT, 2000 (ANNEXURE-D) AND ETC.,

THIS CRIMINAL PETITION IS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.06.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner/sole accused is before this Court calling in question entire proceedings in Special C.No.1029 of 2024 pending before the LXX Additional City Civil and Sessions Judge and Special Judge, Bangalore, arising out of crime in Crime No.471 of 2023 registered for offences punishable under Sections 354-C, 354-D, 504, 506 and 509 of the IPC, Section 66E of the Information Technology Act, 2000 and Section 3(2)(v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act' for short).

2. Facts, in brief, germane are as follows: -

The 2nd respondent is the complainant and the petitioner is the accused. The complainant and the accused met in January 2022 when the petitioner was undergoing coaching for the UPSC examination and was stationed at Delhi. The complainant is said to be acquainted with the petitioner's sister. The complainant was also pursuing her UPSC examination and the averment in the

petition is that, in the garb of exchange of notes for study to the UPSC examination, the petitioner and the complainant get in touch with each other with exchange of messages. On 12-07-2023, the petitioner is said to have met the complainant in Delhi, after which the complainant also moves to the same coaching class and further with the assistance of the petitioner gets a paying guest accommodation. The friendship between the two blossomed into relationship and it is the case of the petitioner that the two got married, but the case of the complainant is otherwise. However, the fact remains that the relationship between the petitioner and the complainant turned irrevocably sore. It is then the complainant registers a complaint before the Chandra Layout Police Station on 19-10-2023 making several allegations against the petitioner that, on the promise of marriage the petitioner had recorded all private videos of the complainant and had begun to blackmail that he would broadcast the same in all social media. The complaint becomes a crime in Crime No.471 of 2023 for several offences of the IPC, Information Technology Act and in the light of the fact that the complainant is belonging to Scheduled Tribe, the provisions of the Act was also invoked. The Police, after investigation, filed a

charge sheet dropping certain provisions under the Act and adding a few on several other offences. Filing of the charge sheet is what has driven the present petitioner to this Court in the subject petition.

3. Heard Smt Monica Patil, learned counsel appearing for the petitioner, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri M.B. Ravikumar, learned counsel appearing for respondent No.2.

4. The learned counsel appearing for the petitioner submits that the petitioner and the 2nd respondent had consensual physical relationship since July 2023 after their first meeting in July, up to which point in time they were still on WhatsApp. When the relationship turned sore, petitioner travels to Prayagraj and at that time, the 2nd respondent registers a complaint before the jurisdictional Police and on 02-11-2023 tenders a statement before the Police making allegations of rape. The Police file a requisition to include the offence of commission of rape on promise of marriage. Talks of settlement are initiated by the members of the families of

both the parties and on 10-11-2023 the marriage is said to be registered. On 14-12-2023 the complainant registers another crime against all the family members that she was forced at the marriage Registrar's office to give her consent to marriage. This becomes a crime at Prayagraj in Crime No.600 of 2023 for several offences. The Allahabad High Court has stayed all further proceedings in the crime registered at Prayagraj. The learned counsel would submit that the entire present proceedings right from the complaint till filing of the charge sheet is gross abuse of the process of law.

5. Per contra, learned counsel appearing for the 2nd respondent/complainant would vehemently contend taking this Court through elaborate statement of objections and certain documents, photographs all to buttress his submission that all the offences are committed by the petitioner and in fact the offences under Section 376 and 420 of the IPC ought to have been included while filing the charge sheet, but they have been dropped. He would submit that the Police have filed a charge sheet and the trial must be permitted to go on with liberty to the concerned Court to

add offences under Sections 376 and 420 of the IPC also and seeks dismissal of the subject petition.

6. The learned Additional State Public Prosecutor Sri B.N. Jagadeesha would also take this Court through the charge sheet and submit that the issue between the two revolves round maze of facts. The allegations in the charge sheet are quite vivid for the offences that are laid. He would also seek dismissal of the petition.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts and link in the chain of events are all a matter of record or as narrated in the petition. The factum of relationship between the two and blossoming of the relationship between the accused and the complainant is again a matter of record. Several narrations in the complaint being frivolous or otherwise are narrated in the petition. Since the entire issue has

now triggered from registration of the complaint, I deem it appropriate to notice the complaint. The complaint reads as follows:

"Date: 18-10-2023.

To
The Inspector,
Chandra Layout Police Station,
Chandra Layout, Bangalore.

Sub: Regarding of private videos and photos by assuring to marry and also threatening to release all the contents on internet, life threat following me in Chandra Layout and Anubhavanagar.

Respected Sir,

With reference to the above-mentioned subject, person by name Abhishek Mishra originally resident of Allahabad (U.P.) had promised me of marriage and had recorded my private videos and clicked many of my private pics of recently he has shifted from Delhi to Bangalore and unknowingly started to follow me and some of my friends, in one such incident he followed a friend of mine on 15th of October at around 2.15 pm. At 60 feet road in Chandra Layout to his room and he started to show my private content to him, in response to which with the highly disturbed mind my friend asked him to not show things and he did not stopped, my friend in order to make him stop told that do not do these things in front of me and in order to trap him to delete all things and inform police, he told that I have married her so do not do this and delete all videos and photos. To trap him he said that I need a copy of all this you meet me again. My friend wanted to inform Police by this time and get him arrested but it so happened that after that meet he came to meet my friend the other day (16-10-2023) around 7.00 p.m. ETA Mall Binnypet, he gave photos of us and certain my friends stuffs and while leaving he told he would come again with the videos and photos in a pen drive, that evening my friend came to me and revealed all the conversation he had with Abhishek Mishra, who I called him and asked him where he is

presently he said that he is in Allahabad when I told him that why are you lying I got to know you are in Bangalore and following my friends and show all private stuff with my friends and his friends also. He immediately said unparliamentary words to me like, Rande, Madarchod etc. Thinking that I am extremely disturbed and knowing that facts that he is having so much of my private things and showing it among his friends he is very disturbing to me.

Kindly take stringent action against him as he did all this on the promise of getting married and on 16th of October he denied that, he will not marry me. I extremely scared as he has so many private stuffs and that has spoiled my life completely and disturbed my mental peace.

I request your good self to do the needful by getting him punished.

Hereby attaching his detail:

Name: Abhishek Mishra

Contact: 8090332889

9794302463

Thanking you,

Sd/- Pinki Sharma, Age 29

Contact: 84486444

Father name: Sohanlal Sharma

Add: 15th 3rd Floor, 4th Cross."

The complaint narrates several horrendous acts on the part of the petitioner and those acts are alleged to be on promise of marriage.

The accused and the complainant having consensual sexual relationship is a matter of record. The complaint then becomes a crime in Crime No.471 of 2023 for offences punishable under Sections 354C, 354D, 504, 506 and 509 of the IPC, Section 66E of

the Information Technology Act, 2000 and Section 3(2)(v) of the Act, 1989. The Police conduct investigation and file a charge sheet in Spl.C.C.No.1029 of 2024. The summary of the charge sheet as obtaining in column No.17 is as follows:

“17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯಲ್ಲಿ ನಮೂದಿಸಿರುವ ಸಾಕ್ಷಿ-1 ಪಿಂಕಿಶರ್ಮ ಬಿನ್ ಸೋಹನ್ ಲಾಲ್ ಶರ್ಮ, 28 ವರ್ಷ ರವರು ಮೂಲತಃ ಉತ್ತರಖಂಡ ರಾಜ್ಯದ ಡೆಹರಾಡೂನ್, ಚಕ್ರತ, ತ್ಯೂನಿ ವಾಸಿಯಾಗಿದ್ದು, ಹಾಲಿ ಬೆಂಗಳೂರಿನ ಚಂದ್ರಲೇಔಟ್ ಫೋಲೀಸ್ ರಾಣಾ ವ್ಯಾಪ್ತಿಯ ಮೂಡಲಪಾಳ್ಯ, ಅನುಭವನಗರ ದಲ್ಲಿ, ಪಾರ್ವತಮ್ಮ ಎಂಬುವರ ಮನೆಯಲ್ಲಿ ಬಾಡಿಗೆದಾರರಾಗಿ ವಾಸಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿ-1 ರವರು ಪರಿಶಿಷ್ಟ ಜಾತಿಗೆ ಸೇರಿದ ಜೋನ್ಸಾರಿ ಜಾತಿಗೆ (ಉತ್ತರಖಂಡ) ಸೇರಿದವರಾಗಿರುತ್ತಾರೆ.

2) ಪ್ರಕರಣದ ಎ-1 ಆರೋಪಿ ಅಭಿಷೇಕ್ ಮಿಶ್ರಾ ಬಿನ್ ದಿನೇಶ್ ಕುಮಾರ್ ಮಿಶ್ರಾ, 28 ವರ್ಷರವರು ಮೂಲತಃ ಉತ್ತರಪ್ರದೇಶದ ಪ್ರಯಾಗ್ ರಾಜ್ ವಾಸಿಯಾಗಿರುತ್ತಾರೆ. ಎ-1 ಬ್ರಾಹ್ಮಣ ಜಾತಿಗೆ (ಉತ್ತರಪ್ರದೇಶ) ಸೇರಿದವರಾಗಿರುತ್ತಾರೆ.

3) ದಿನಾಂಕ: 19-01-2023 ರಂದು ಸಾಕ್ಷಿ-1 ರವರು ಚಂದ್ರಲೇಔಟ್ ಫೋಲೀಸ್ ರಾಣಿಗೆ ಹಾಜರಾಗಿ, ನೀಡಿರುವ ಕೈಬರಹದ ದೂರಿನ ಮೇರೆಗೆ ಸಾಕ್ಷಿ -24 ಶ್ರೀ ರವೀಶ್, ಪಿ.ಎಸ್.ಐ, ರವರು ದೂರನ್ನು ಪಡೆದುಕೊಂಡು ತಾಣಾ ಮೊ.ಸಂ.471/2023 ಕಲಂ 354(ಡಿ), 354 (ಫಿ), 509, 504, 506 ಐಪಿಸಿ ಮತ್ತು ಕಲಂ 66(ಇ) ಐ.ಟಿ. ಕಾಯ್ದೆ ರೀತ್ಯ ಪ್ರಕರಣ ದಾಖಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ದೂರಿನಲ್ಲಿ ಸಾಕ್ಷಿ-1 ರವರು ಪ್ರಮುಖವಾಗಿ ಆರೋಪಿಸಿರುವ ಸಂಕ್ಷಿಪ್ತತೆ: ಆರೋಪಿ ಎ-1 ಈತನು ದೆಹಲಿಯಲ್ಲಿದ್ದಾಗ, ಸಾಕ್ಷಿ-1 ರವರ ಸಹೋದರಿ ಸಾಕ್ಷಿ- 11 ಅಂಜಲಿ ಶರ್ಮ ರವರ ಮೂಲಕ ಪರಿಚಯವಾಗಿದ್ದು, ಇಬ್ಬರೂ ಆತ್ಮೀಯವಾಗಿ ಸಲಿಗೆಯಿಂದಿದ್ದು, ಮದುವೆಯಾಗುತ್ತೇನೆಂದು ನಂಬಿಸಿದ್ದು, ಇಬ್ಬರೂ ಇರುವ ಖಾಸಗಿ ಸಮಯದಲ್ಲಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋಗಳನ್ನು ತೆಗೆದುಕೊಂಡಿರುತ್ತಾನೆ, ಸಾಕ್ಷಿ-1 ರವರು ನಂತರ ಬೆಂಗಳೂರಿಗೆ ಬಂದು ವಾಸಮಾಡಿಕೊಂಡಿದ್ದು, ಸಾಕ್ಷಿ-1 ರವರ ಸ್ನೇಹಿತನಾದ ಸಾಕ್ಷಿ-8 ಪ್ರಮೋದ್ ರಾಜ್ ರವರೊಂದಿಗೆ ದಿನಾಂಕ: 15-10-2023 ರಂದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 2.15 ಗಂಟೆಯಲ್ಲಿ, ಚಂದ್ರಲೇಔಟ್ ನಲ್ಲಿರುವ 60 ಅಡಿ ರಸ್ತೆಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಹೋಗುತ್ತಿರುವಾಗ, ಎ-1 ಈತನು ಹಿಂಬಾಲಿಸಿಕೊಂಡು ಬಂದಿದ್ದು, ಅಲ್ಲದೇ ಇದಕ್ಕೂ ಮೊದಲು ದಿನಾಂಕ:06-10-2023 ರಂದು ಸಾಕ್ಷಿ-8 ರವರನ್ನು ಭೇಟಿ ಮಾಡಿರುವ ಎ-1 ಈತನು ನನಗೆ ಸಂಬಂಧಿಸಿ ಕೆಲ ವಸ್ತುಗಳನ್ನು ಸಾಕ್ಷಿ-8 ರವರಿಗೆ ಕೊಟ್ಟಿದ್ದು, ಸಾಕ್ಷಿ-8 ರವರ ವಾಸದ ಕೊಠಡಿಗೂ ಹೋಗಿದ್ದು, ಸಾಕ್ಷಿ-1 ಮತ್ತು ಎ-1 ರವರು ಖಾಸಗಿ ಸಮಯದಲ್ಲಿರುವ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋಗಳನ್ನು ಸಾಕ್ಷಿ-8 ರವರಿಗೆ ತೋರಿಸಿದ್ದು, ಸಾಕ್ಷಿ-8

ರವರು, ಸಾಕ್ಷಿ-1 ರವರನ್ನು ವಿವಾಹವಾಗಿರುತ್ತೇನೆ, ಆ ಎಲ್ಲವನ್ನೂ ಡಿಲೀಟ್ ಮಾಡು ಎಂದರೂ ಕೇಳದೇಯಿದ್ದು, ನಂತರ ಸಾಕ್ಷಿ-1 ರವರು ಎ-1 ರವರಿಗೆ ಕರೆ ಮಾಡಿ ಕೇಳಲಾಗಿ, ಎ-1 ರವರು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಸೂಳೆ ಮುಂಡೆ ಎಂಬಿತ್ಯಾದಿ ಕೆಟ್ಟ ಪದಗಳಿಂದ ಬೈದಿರುತ್ತಾನೆಂದು, ಹಾಗೂ ಆತನ ಬಳಿ ಸಾಕ್ಷಿ-1 ರವರ ಖಾಸಗಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋಗಳಿದ್ದು, ಅವರುಗಳನ್ನು ಬೇರೆಯವರಿಗೆ ತೋರಿಸಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆಂದು ಇತ್ಯಾದಿಯಾಗಿ ಎ-1 ರವರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮಕ್ಕಾಗಿ ಕೋರಿರುವ ದೂರಾಗಿರುತ್ತದೆ.

4) ನಂತರ ತನಿಖಾಧಿಕಾರಿಯಾದ ಸಾಕ್ಷಿ-25 ಶ್ರೀ ಕೆ.ಎಸ್. ಹೆಚ್. ಪಿ.ಎ. ರವರು ತನಿಖೆ ಕೈಗೊಂಡಿದ್ದು, ಸಾಕ್ಷಿ-1 ರವರು ತೋರಿಸಿದ ಸ್ಥಳವಾದ ಚಂದ್ರಲೇಛಿ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ 60 ರಸ್ತೆಯ ಈ ಸ್ಥಳದಲ್ಲಿ, ಪಂಚಸಾಕ್ಷಿದಾರರಾದ ಸಾಕ್ಷಿ-2 ಶ್ರೀ ಪ್ರಜ್ವಲ್ ಆರ್ ಮತ್ತು ಸಾಕ್ಷಿ-3 ಶ್ರೀ ವಾಹಿದ್ ಪಾಷಾ ರವರ ಹಾಜರಾತಿಯಲ್ಲಿ, ಸ್ಥಳ ಪಂಚನಾಮೆ ಜರುಗಿಸಿರುತ್ತದೆ.

5) ಪ್ರಕರಣದ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ದಿನಾಂಕ:31-10-2023 ರಂದು ಪರ್ಯಾಯದಾರರಾದ ಸಾಕ್ಷಿ-1 ರವರು ನೀಡಿದ ಮರು ಹೇಳಿಕೆಯ ಮೇರೆಗೆ ದಿನಾಂಕ: 02-11-2023 ರಂದು ಘನ 45ನೇ ನ್ಯಾಯಾಲಯದಲ್ಲಿ, ನಿವೇದಿಸಿಕೊಂಡಿದ್ದು, ಕಲಂ 376, 420 ಐಪಿಸಿ ಗಳನ್ನು ಹೆಚ್ಚುವರಿಯಾಗಿ ಅಳವಡಿಸಿಕೊಂಡಿದ್ದು, ತನಿಖೆ ಮುಂದುವರಿಸಿರುತ್ತದೆ.

6) ಪರ್ಯಾಯದಾರರಾದ ಸಾಕ್ಷಿ-1 ರವರನ್ನು ಸಾಕ್ಷಿ - 18 ಶ್ರೀಮತಿ ಸಾಹಿದಾ ಬಾನು, ಹೆಚ್.ಸಿ. 8320 ರವರೊಂದಿಗೆ ಇ.ಎಸ್.ಐ.ಸಿ. ಆಸ್ಪತ್ರೆ, ರಾಜಾಜಿನಗರ ಇಲಿಗೆ ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದು, ಪ್ರಕರಣದ ಆರೋಪದ ಸಂಬಂಧ ವೈದ್ಯಕೀಯ ಪರೀಕ್ಷೆಗೊಳಪಡಿಸಿದ್ದು, ವೈದ್ಯರಾದ ಸಾಕ್ಷಿ-13 ಡಾ. ಪ್ರತಿಭಾ ರವರು ವರದಿ ನೀಡಿರುತ್ತಾರೆ, ಸದರಿ ಅಭಿಪ್ರಾಯ ವರದಿಯಲ್ಲಿ, 'There are no signs of penetrative vaginal intercourse ----- due to delay of 1 month 27 days from the date of last incident to reporting to the hospital ಎಂದು ದಿನಾಂಕ 03.11.2023 ರ ವರದಿಯಲ್ಲಿ ತಿಳಿಸಿರುತ್ತಾರೆ.

7) ದಿನಾಂಕ: 05-01-2024 ರಂದು ಪರ್ಯಾಯದಾರರಾದ ಸಾಕ್ಷಿ -1 ರವರನ್ನು ಘನ 45ನೇ ಎಸಿಎಂಎಂ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಜರುಪಡಿಸಿದ್ದು, ಕಲಂ 164 ಸಿಆರ್.ಪಿ.ಸಿ. ಅಡಿಯಲ್ಲಿ ಹೇಳಿಕೆ ದಾಖಲಿಸಿರುತ್ತದೆ, ಸದರಿ ಹೇಳಿಕೆಯಲ್ಲಿ ಸಾಕ್ಷಿ-1 ರವರು ನುಡಿದಿರುವ ಸಂಕ್ಷಿಪ್ತತೆ: ಸದರಿ ಸಾಕ್ಷಿ-1 ರವರು ಈ ಹಿಂದೆ 2022ನೇ ಜನವರಿಯಲ್ಲಿ ಯು.ಪಿ.ಎಸ್.ಸಿ. ಹುದ್ದೆಗೆ ತಯಾರಿ ಮಾಡುವ ಸಲುವಾಗಿ ದೆಹಲಿಯಲ್ಲಿ ವಾಸವಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿಯಾಗಿರುವ ಎ-1 ಅಭಿಷೇಕ್ ಮಿಶ್ರಾ ಬಿನ್ ದಿನೇಶ್ ಕುಮಾರ್ ಮಿಶ್ರಾ, 28 ವರ್ಷ ರವರು ವಾಸಕ್ಕೆ ರೂಂ ಕೊಡಿಸುವ ಮತ್ತು ಓದಲು ಬುಕ್ ಆಯ್ಕೆ ವಿಚಾರವಾಗಿ ಸಾಕ್ಷಿ-1 ರವರ ಸಹೋದರಿ ಸಾಕ್ಷಿ-11 ರವರ ಮೂಲಕ ಪರಿಚಯವಾಗಿರುತ್ತಾರೆ. ನಂತರ ದಿನಾಂಕ:21-07-2023 ರಂದು ವಾಸವಿದ್ದ ರೂಂನಲ್ಲಿ ನೀರಿನ ಅಭಾವವಿದ್ದ ಕಾರಣ, ಎ-1 ರವರು ವಾಸವಿದ್ದಲ್ಲಿಗೆ ಹೋಗಿದ್ದು, ಸ್ನಾನ ಮಾಡುತ್ತಿರುವಾಗ, ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋ ತೆಗೆದುಕೊಂಡಿದ್ದು, ನಮ್ಮ ಕುಟುಂಬಸ್ಥರಿಗೆ ನೀಡುವುದಾಗಿ ಬೆದಿಸಿ, ಬಲವಂತವಾಗಿ ನನ್ನೊಂದಿಗೆ ದೈಹಿಕ ಸಂಭೋಗ ಮಾಡಿರುತ್ತಾನೆ. ನಮ್ಮ ಖಾಸಗಿ ಸಮಯದ

ವಿಡಿಯೋ ಮತ್ತು ಫೋಟೋ ತೆಗೆದುಕೊಂಡಿರುತ್ತದೆ. ನಂತರ ಮದುವೆ ಮಾಡಿಕೊಳ್ಳುವುದಾಗಿ ಹೇಳಿ ನಂಬಿಸಿರುತ್ತಾನೆ. 23.09.2023 ರಂದು ನಾನು ಆತನ ರೂಂಗೆ ಹೋಗಿದ್ದಾಗ ಮದ್ಯಾಹ್ನ ಸುಮಾರು 12.00 ಗಂಟೆಯಲ್ಲಿ, ಉಟ ತರಿಸಿದ್ದು, ನಂತರ ಬಲವಂತವಾಗಿ ನನ್ನನ್ನು ರೂಂನಲ್ಲಿಯೇ ರಾತ್ರಿಯಲ್ಲಾ ಇರಿಸಿಕೊಂಡಿದ್ದು, ಬಲವಂತವಾಗಿ ಹಠ ಸಂಭೋಗ ಮಾಡಿರುತ್ತಾನೆ. ನಾನು ನಂತರ ನಡೆದಿರುವ ಘಟನೆಯನ್ನು ನನ್ನ ರೂಂಮೇಟ್ ಆಗಿದ್ದ ಪ್ರಗತಿಗೆ ತಿಳಿಸಿರುತ್ತೇನೆ. ನಂತರ ನಾನು ದಿನಾಂಕ:13-09-2023 ರಂದು ಬೆಂಗಳೂರಿಗೆ ಬಂದಿದ್ದು, ಸ್ನೇಹಿತನಾದ ಪ್ರಮೋದ್ ಎಂಬುವನೊಂದಿಗೆ ನಡೆದುಕೊಂಡು ಹೋಗುತ್ತಿರುವಾಗ, ನಮ್ಮನ್ನು ಹಿಂಬಾಲಿಸಿಕೊಂಡು ಬಂದಿದ್ದು, ನನ್ನ ಖಾಸಗಿ ಫೋಟೋಗಳನ್ನು ಪ್ರಮೋದ್ ರವರಿಗೆ ತೋರಿಸಿರುತ್ತಾನೆ. ದಿನಾಂಕ: 24-10-2023 ರಂದು ನಾನು ಉತ್ತರಪ್ರದೇಶದ ಪ್ರಯಾಗ್ ರಾಜ್ ಗೆ ಹೋಗಿದ್ದು, ಎ-1 ರವರ ತಾಯಿ ರೀತಾ ಮಿಶ್ರಾ, ರವರಿಗೆ ಫೋನ್ ಮಾಡಿ ವಿಷಯವನ್ನೆಲ್ಲಾ ಹೇಳಿರುತ್ತೇನೆ, ಎ-1 ರವರ ತಾಯಿ ರವರು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ - ಜಾತಿನಿಂದನೆ ಮಾಡಿರುತ್ತಾರೆ, ದಿನಾಂಕ: 07-11-2023 ರಂದು ಎ-1 ರವರ ಸಂಬಂಧ ಸಾಕ್ಷಿ-4 ರವರು ಸಾಕ್ಷಿ-1 ರವರ ಸಂಪರ್ಕಕ್ಕೆ ಬಂದಿದ್ದು, ಸೆಪ್ಟಿಮೆಂಟ್ ಮಾಡಿಕೊಳ್ಳಲು ಹೇಳಿದರು. ಆಗ ನಾನು ಅವರನ್ನು ಕೇಳಿದ್ದು, ಎ-1 ರವರ ಬಳಿಯಿರುವ ನನ್ನ ಎಲ್ಲಾ ಖಾಸಗಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋ ಕೊಡುವಂತೆ ಹೇಳಿರುತ್ತೇನೆ. ದಿನಾಂಕ:08-11-2023 ಎ-1 ರವರ ಪೋಷಕರು ಸಂಪರ್ಕಕ್ಕೆ ಬಂದಿದ್ದು, ಮದುವೆ ಮಾಡಿಕೊಳ್ಳು, ಒಪ್ಪಿಕೊಂಡಿದ್ದು ನನ್ನನ್ನು ಪ್ರಯಾಗ್ ರಾಜ್ ನಲ್ಲಿರುವ ವಿವಾಹ ನೋಂದಣಾಧಿಕಾರಿ ಕಛೇರಿಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿದ್ದು, ವಿವಾಹ ನೋಂದಣಿ ಮಾಡಿಸಿರುತ್ತಾರೆ. ನಂತರ ನನ್ನ ಖಾಸಗಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋ ಇದ್ದ ಅಭಿಷೇಕ್ ನ ಲ್ಯಾಪ್ ಟಾಪ್, ಮೊಬೈಲ್ ಫೋನ್, ಪೆನ್ ಡ್ರೈವ್ ಮತ್ತು ಹಾರ್ಡ್ ಡಿಸ್ಕ್ ಕೊಟ್ಟಿರುತ್ತಾರೆ. ನದರಿ ಮಾರೇಜ್ ಸರ್ವೆಕೇಟ್ ನಲ್ಲಿ, ನಾವು ಮದುವೆಯಾದ ದಿನಾಂಕವನ್ನು 12-08-2023 ಎಂದು ನಮೂದಿಸಿದ್ದು, ನನಗೆ ಆಶ್ಚರ್ಯವಾಗಿದ್ದು, ಈ ಸಂಬಂಧ ನಾನು ದೂರು ದಾಖಲಿಸಿರುತ್ತೇನೆ ಎಂದು ಇತ್ಯಾಧಿಯಾಗಿರುತ್ತದೆ.

8) ದಿನಾಂಕ:08-01-2024 ರಂದು ಘನ 45ನೇ ಎಸಿಎಂಎಂ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇದನೆ ಮಾಡಿಕೊಂಡಿದ್ದು, ಪ್ರಕರಣದಲ್ಲಿ ಹೆಚ್ಚುವರಿಯಾಗಿ ಕಲಂ 3((1)(w)(i)(ii), 3(1)(z), 3(2)(v) SC/ST (POA) Act ಗಳನ್ನು ಅಳವಡಿಸಿಕೊಂಡಿರುತ್ತದೆ, ಹಾಗೂ ಪ್ರಕರಣವನ್ನು ಘನ ಸಿಸಿಹೆಚ್-71ನೇ ನ್ಯಾಯಾಲಯಕ್ಕೆ ವರ್ಗಾವಣೆ ನೀಡುವಂತೆ ಕೋರಿರುತ್ತದೆ.

9) ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಪಶ್ಚಿಮ ವಿಭಾಗ, ಬೆಂಗಳೂರು ನಗರ ರವರ ಆದೇಶ ಸಂಖ್ಯೆ: ಅಪರಾಧ/ಹೆಚ್.ಸಿ./07ಎ/ಡಿಸಿಪಿ(ಪ)/2024 ದಿನಾಂಕ:07-01-2024 ರ ಮೇರೆಗೆ ಸಾಕ್ಷಿ-26 ಭರತ್ ಎಸ್. ರೆಡ್ಡಿ, ಸಹಾಯಕ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಬ್ಯಾಟರಾಯನಪುರ ಉಪ ವಿಭಾಗ ಆದ ನಾನು ವರ್ಗಾವಣೆ ಪಡೆದುಕೊಂಡು ತನಿಖೆ ಮುಂದುವರೆಸಿರುತ್ತದೆ.

10) ಅತ್ಯಾಚಾರವೆಂದು ಹೇಳಿರುವ ದೆಹಲಿಯ ಸ್ಥಳ ಮತ್ತು ಜಾತಿನಿಂದನೆ ಎಂದು ಹೇಳಿರುವ ಉತ್ತರ ಪ್ರದೇಶದ ಪ್ರಯಾಗ್ ಸ್ಥಳಗಳಲ್ಲಿ ಪಂಚನಾಮೆ ಮತ್ತು ತನಿಖೆಯ ಇತರೆ ಅಗತ್ಯ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಂಡು ಬರುವಂತೆ ಸಾಕ್ಷಿ-23, ಶ್ರೀಮತಿ ವಿದ್ಯಾ ಎಂ.ವಿ, ಪಿ.ಎಸ್.ಐ., ಬ್ಯಾಟರಾಯನಪುರ ಪೊಲೀಸ್ ಠಾಣೆ

ಮತ್ತು ಸಿಬ್ಬಂದಿ ಶ್ರೀ ಮುನಿರಾಜು ಎಲ್.ಎನ್., ಪಿ.ಸಿ. 9306 ರವರಿಗೆ ಜ್ಞಾಪನ ನೀಡಿದ್ದು ಸದರಿ ಅಧಿಕಾರಿಗಳು ಹೋಗಿದ್ದು, ದಿನಾಂಕ 07-02-2024 ರಂದು ಸಾಕ್ಷಿ-1 ರವರು ತೋರಿಸಿದ ಜಾತಿನಿಂದನೆ ಆರೋಪದ ಸ್ಥಳವಾದ ಆರೋಪಿ ಎ-1 ರವರ ವಾಸದ ಮನೆಯ ವಿಳಾಸವಾದ ಕರ್ನಲ್ ಗಂಜ್ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ತೆಲಿಯಾರ್ ಗಂಜ್, ಕೈಲಾಶ್ ಪುರಿ, ಚಾಂದ್ವರ್ ಸಲೋರಿ, ಮನೆ ನಂ. 145ಬಿ/21/3ಜೆ/1 ಇದು ಬಾಗಿಲು ಹಾಕಿದ್ದು, ಬೀಗ ಹಾಕಿದ್ದ ನಿಮಿತ್ತ ಮನೆ ಮುಂದೆ ಪಂಚಾಯ್ತುದಾರರಾದ ಸಾಕ್ಷಿ-4 ಮತ್ತು ಸಾಕ್ಷಿ-5 ರವರ ಹಾಜರಾತಿಯಲ್ಲಿ, ಸ್ಥಳೀಯ ಪೊಲೀಸರ ಹಾಜರಾತಿಯಲ್ಲಿ ಸ್ಥಳ ಪಂಚನಾಮೆ ಜರುಗಿಸಿರುತ್ತದೆ. ಅಲ್ಲಿ, ಸಾಕ್ಷಿ-1 ರವರು ಸ್ಥಳವನ್ನು ತೋರಿಸಿದ್ದು, ಮನೆಯ ಒಳಗೆ ಹಾಲ್ನಲ್ಲಿ ಜಾತಿನಿಂದನೆ ಆಗಿರುತ್ತದೆ ಎಂದು ಹೇಳಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿ-1 ರವರು ಪಿ-1 ರವರೊಂದಿಗೆ ವಿವಾಹ ನೋಂದಣೆಯಾಗಿದ್ದು, ಈ ಸಂಬಂಧ ದೂರಿನ ಬಗ್ಗೆ, ಸಾಕ್ಷಿ-1 ರವರು ಉತ್ತರಪ್ರದೇಶದ ಕರ್ನಲ್ ಗಂಜ್ ನಲ್ಲಿ, ದಿನಾಂಕ: 14-12-2023 ರಂದು ದಾಖಲಿಸಿರುವ ಪ್ರ.ವ.ವರದಿ ಸಂಖ್ಯೆ: 600/2023 ಕಲಂ 419, 420, 467, 468 ಐಪಿಸಿ ಪ್ರಕರಣದ ದಾಖಲೆಗಳನ್ನು ರಾಣಿಯಿಂದ ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ.

11) ದಿನಾಂಕ:08-02-2024 ರಂದು ಸಾಕ್ಷಿ-1 ರವರು ತೋರಿಸಿದ ಬಲವಂತದ ಲೈಂಗಿಕ ಸಂಭೋಗ ಸ್ಥಳವಾದ ದೆಹಲಿಯ ಕರೋಲ್ ಬಾಗ್ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ವಿಷ್ಣು ಮಂದಿರ ಮಾರ್ಗ, ಬಾಲಾಜಿ ಮೆಡಿಕಲ್ಸ್ ಹತ್ತಿರವಿರುವ ಸಾಕ್ಷಿ-12 ರವರಿಗೆ ಸೇರಿದ ಕಟ್ಟಡ ಸಂಖ್ಯೆ:6ಎ/48 ಇದರ . ಮೂರನೇ ಮಹಡಿಯಲ್ಲಿರುವ ಕೊಠಡಿ ಸಂಖ್ಯೆ: 02 ರಲ್ಲಿ ಸಾಕ್ಷಿ-6 ಮತ್ತು ಸಾಕ್ಷಿ-7 ರವರ ಹಾಜರಾತಿಯಲ್ಲಿ, ಕಟ್ಟಡದ ಉಸ್ತುವಾರಿ ಸಾಕ್ಷಿ-12 ಮತ್ತು ಸ್ಥಳೀಯ ಪೊಲೀಸರ ಹಾಜರಾತಿಯಲ್ಲಿ ಸ್ಥಳ ಪಂಚನಾಮೆ ಜರುಗಿಸಿರುತ್ತದೆ.

12) ಪಿಯಾರ್‌ದಾರರಾದ ಸಾಕ್ಷಿ-1 ರವರು ದಿನಾಂಕ:31-10-2023 ರಂದು ರಾಣಿಗೆ ಹಾಜರಾಗಿದ್ದು, ಆರೋಪಿ ಎ-1 ಈತನು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಸಂಬಂಧಿಸಿದ್ದೆಂದು ಸಾಕ್ಷಿ-1 ರವರ ಸ್ನೇಹಿತ ಸಾಕ್ಷಿ-8 ರವರಿಗೆ ಕೊಟ್ಟು ಹೋಗಿದ್ದನೆಂದು ಹೇಳಿದ್ದು, ಹಾಜರುಪಡಿಸಿದ 15 ಫೋಟೋಗಳು, ಗಾಜಿನ ಬಳೆಗಳು ಅದರಲ್ಲಿ ಕೆಲವು ಒಡೆದುಹೋಗಿರುತ್ತವೆ. ಉಮಾಗೋಲ್ಟ್ ಕಿವಿಯೋಲೆ, ಕಪ್ಪುಬಣ್ಣದ ಕಾಚ, 16 ಜಿಬಿ ಹೆನ್ ಡ್ರೈವ್ ಗಳನ್ನು ಸಾಕ್ಷಿ-8 ಮತ್ತು ಸಾಕ್ಷಿ-9 ರವರ ಹಾಜರಾತಿಯಲ್ಲಿ ಅಮಾನತ್ತು ಪಂಚನಾಮೆಯ ಮೂಲಕ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಸ್ವತ್ತು ಪಟ್ಟಿ ಸಂಖ್ಯೆ: 116/2023 ರಲ್ಲಿ ಅಳವಡಿಸಿರುತ್ತದೆ.

13) ಆರೋಪಿ ಎ-1 ರವರ ಕಡೆಯಿಂದ ಪಡೆದುಕೊಂಡಿದ್ದು, ಪ್ರಕಣದ ತನಿಖೆಗೆ ಅಗತ್ಯವಿರುವ ಸಾಕ್ಷಿ-1 ರವರು ಖಾಸಗಿ ವಿಡಿಯೋ, ಫೋಟೋ, ಆಡಿಯೋ ಮತ್ತು ಚಾಟ್ ಗಳಿವೆಯೆಂದು ಹೇಳಿ ಸಾಕ್ಷಿ -1 ರವರು ದಿನಾಂಕ:06-03-2023 ರಂದು ಹಾಜರುಪಡಿಸಿದ 01) 01- HP Laptop Black color, Serial No: CNF0104YPJ, 2) 01-HP Laptop, Grey color, Serial No. 00178-139-418-372, 3) 01 - Dell Laptop, Black color, Serial No. HY6YMP1, 4)01- i phone-7 mobile phone red color, locked. 5) 01-E-phone-12 mobile phone- light blue color, locked. 6)01- TOSHIBA -500GB external hard disc. 7)01-Sandisk Ultra USB 3.0 - 128GB -Pen drive, 8)01- Sandisk Ultra USB 3.0 - 128GB - Pen drive, 9)01-Sandisk-Cruzer Blade 128 GB pen drive, 10) 01-Sandisk-Cruzer Blade 16 GB pen drive ಗಳನ್ನು ಸಾಕ್ಷಿ-9

ಮತ್ತು ಸಾಕ್ಷಿ-10 ರವರ ಹಾಜರಾತಿಯಲ್ಲಿ ಅಮಾನತ್ತು ಪಂಚನಾಮೆಯ ಮೂಲಕ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಸ್ವತ್ತುಪಟ್ಟಿ ಸಂಖ್ಯೆ: 45/2024 ರಲ್ಲಿ ಅಳವಡಿಸಿರುತ್ತದೆ.

14) ಆರೋಪಿ ಪತ್ತೆಗಾಗಿ ಸಾಕ್ಷಿ-22 ಶ್ರೀ ತಿಪ್ಪೇಸ್ವಾಮಿ, ಪಿ.ಎಸ್.ಐ., ಸಾಕ್ಷಿ-21 ಶ್ರೀ ಗಜೇಂದ್ರ, ಎ.ಎಸ್.ಐ., ಸಾಕ್ಷಿ-17 ಶ್ರೀ ಶಿವಪ್ಪ ಸಿದ್ಧಾಮಪ್ಪ ಸಜ್ಜನ್, ಪಿ.ಸಿ. 15385 ರವರನ್ನು ಕಳುಹಿಸಿದ್ದು, ಆರೋಪಿ ಪತ್ತೆಯಾಗದೇಯಿದ್ದು, ವರದಿ ನೀಡಿರುತ್ತಾರೆ.

15) ಸಾಕ್ಷಿ-1 ರವರು ಮತ್ತು ಎ-1 ರವರು ವಿವಾಹ ನೋಂದನಿಯಾಗಿರುವ ಸಂಬಂಧ ಸಾಕ್ಷಿ-15, ಚತುರ್ಬುಜ್ ಪಾಂಡೆ, ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್, ಸದರ್ -1, ಪ್ರಯಾಗ್ ರಾಜ್, ಉತ್ತರ ಪ್ರದೇಶ್ ರವರಿಂದ ದಾಖಲೆ ಪಡೆದುಕೊಂಡು ಪರಿಶೀಲಿಸಿರುತ್ತದೆ. ಸಾಕ್ಷಿ-1 ಮತ್ತು ಎ-1 ರವರು ದಿನಾಂಕ:12-08-2023 ರಂದು ವಿವಾಹವಾಗಿದ್ದು, ದಿನಾಂಕ: 10-11-2023 ರಂದು ವಿವಾಹ ನೋಂದಣಿ ಮಾಡಿಸಿಕೊಂಡಿರುವುದಾಗಿ ಕಂಡುಬಂದಿರುತ್ತದೆ.

16) ಎ-1 ಈತನು ಘನ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಕ್ರಿಮಿನಲ್ ಮಿಸ್ಟೇನಿಯಸ್ ನಂ. 11973/2023 ರಲ್ಲಿ ಷರತ್ತು ಬದ್ಧ ನಿರೀಕ್ಷಣಾ ಜಾಮೀನು ಪಡೆದುಕೊಂಡು ದಿನಾಂಕ:08-01-2024 ರಂದು ರಾಣಿಗೆ ಹಾಜರಾಗಿದ್ದು, ಬಂಧಪತ್ರ ಕ್ರಮ ಜರುಗಿಸಿರುತ್ತದೆ. ನಂತರ ಆರೋಪಿಯನ್ನು ಸಾಕ್ಷಿ-19 ಶ್ರೀ ಮಲ್ಲಿಕಾರ್ಜುನ ಜಿ.ಎಸ್., ಹೆಚ್.ಸಿ. 12031 ರವರೊಂದಿಗೆ ವಿಶ್ವೇರಿಯಾ ಆಸ್ಪತ್ರೆಗೆ ದಿನಾಂಕ:09-01-2024 ರಂದು ಕಳುಹಿಸಿದ್ದು, ವೈದ್ಯರಾದ ಸಾಕ್ಷಿ-14 ಡಾ. ನರೇಶ್ ಕುಮಾರ್ ರವರು ಪ್ರಕರಣದ ಸಂಬಂಧ ವೈದ್ಯಕೀಯ ಪರೀಕ್ಷೆಗೊಳಪಡಿಸಿದ್ದು, ವರದಿ ನೀಡಿದ್ದು. There is nothing to surest that the person is incapable of performing sexual intercourse ಎಂದು ಅಭಿಪ್ರಾಯ ತಿಳಿಸಿರುತ್ತಾರೆ.

17) ಪ್ರಕರಣದಲ್ಲಿ ಕಲಂ 376, 420 ಐಪಿಸಿ ಗಳನ್ನು ಕೈಬಿಡಲು ಕಾರಣ:

ಸಾಕ್ಷಿ-1 ಪಿಂಕಿಶರ್ಮ ರವರು ತನಿಖಾ ಕಾಲದಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ 2023ನೇ ಜುಲೈ ಮತ್ತು ಆಗಸ್ಟ್ ತಿಂಗಳಿನಲ್ಲಿ, ಎ-1 ಆರೋಪಿಯ ದೆಹಲಿಯ ಕರೋಲ್ ಭಾಗ್ನಲ್ಲಿರುವ ಸಾಕ್ಷಿ-12 ರವರ ಕಟ್ಟಡದಲ್ಲಿನ ಕೊಠಡಿ ಸಂಖ್ಯೆ:2 ರಲ್ಲಿ, ಬಲವಂತವಾಗಿ ಲೈಂಗಿಕ ಸಂಭೋಗ ಮಾಡಿರುತ್ತಾರೆ, ಮದುವೆಯಾಗುವುದಾಗಿ ನಂಬಿಸಿ ಮೋಸ ಮಾಡಿರುತ್ತಾರೆಂದು ಆರೋಪಿಸಿರುತ್ತಾರೆ. ಆದರೆ ಸದರಿ ಘಟನೆಯ ಸಂಬಂಧ ಇದುವರೆಗೂ ಯಾವುದೇ ಸಾಕ್ಷಾಧಾರಗಳನ್ನೂ ನೀಡುವುದಿಲ್ಲ, ಸಾಕ್ಷಿ-15, ಪ್ರಯಾಗ್ ರಾಜ್ ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್ ರವರು ದೃಢೀಕರಿಸಿ ನೀಡಿರುವ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಸಾಕ್ಷಿ-1 ರವರು ಎ-1 ರವರನ್ನು ದಿನಾಂಕ: 12-08-2023 ರಂದು ವಿವಾಹವಾಗಿದ್ದು, ದಿನಾಂಕ:10-11-2023 ರಂದು ವಿವಾಹವನ್ನು ನೋಂದಣಿ ಮಾಡಿಸಿರುತ್ತದೆ. ಸದರಿ ದಾಖಲೆಗಳ ಪ್ರಕಾರ ಸಾಕ್ಷಿ-1 ರವರು ಎ-1 ರವರ ಪತ್ನಿಯಾಗಿರುತ್ತಾರೆ. ಘಟನೆ ನಡೆದು ಹಲವಾರು ತಿಂಗಳುಗಳ ನಂತರ ಘಟನೆ ನಡೆದಿದೆಯೆಂದು ಹೇಳಿರುತ್ತಾರೆ. ಇದುವರೆಗೂ ಎಲ್ಲಿಯೂ ಕೂಡ ದೂರು ನೀಡಿರುವುದಿಲ್ಲ. ಘಟನೆಯಾದ ಕೂಡಲೇ ಸ್ಥಳೀಯ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರು ನೀಡಬಹುದಿತ್ತು. ಆದರೆ ನೀಡಿರುವುದಿಲ್ಲ. ಅಲ್ಲದೇ ಸಾಕ್ಷಿ-1 ರವರು ಎ-1 ಆರೋಪಿಯ ಕೊಠಡಿಗೆ ತಾವಾಗಿಯೇ ಹಲವಾರು ಸಲ ಬಂದು

ದಿನಪೂರ್ತಿ ಇರುತ್ತಿದ್ದು, ಸಮತೋಷದಿಂದಲೇ ಹೊರಹೋಗುತ್ತಿದ್ದರು. ಇಲ್ಲಿಯವರೆಗೂ ಎಂದಿಗೂ ಬಲವಂತವಾಗಿ ಲೈಂಗಿಕ ಸಂಭೋಗ ಮಾಡಿರುತ್ತಾನೆ ಅಥವಾ ತೊಂದರೆ ಕೊಟ್ಟಿದ್ದಾರೆಂದು ಹೇಳಿಕೊಂಡಿರುವುದಿಲ್ಲ, ಎಂದು ಸಾಕ್ಷಿ-12 ರವರ ವಿಚಾರಣೆಯಿಂದ ತಿಳಿದುಬಂದಿರುತ್ತದೆ. ಸಾಕ್ಷಿ-1 ರವರು ಹಾಜರುಪಡಿಸಿರುವ ಪೆನ್ಸ್ಟ್ರೆವ್ ನಲ್ಲಿರುವ ಸಾಕ್ಷಿ-1 ಮತ್ತು ಎ-1 ಆರೋಪಿರವರ ನಡುವೆ ನಡೆದಿರುವ ವಿಡಿಯೋ ಕಾಲ್, ವಿಡಿಯೋ, ಆಡಿಯೋ ಮತ್ತು ಚಾಟ್ ಗಳನ್ನು ಸಿಬ್ಬಂದಿ ಸಾಕ್ಷಿ-16 ರವರು ಪರಿಶೀಲಿಸಿ ವರದಿ ನೀಡಿದ್ದು, ಸಾಕ್ಷಿ-1 ರವರೇ ಪ್ರಚೋದಿಸುವಂತಹವುಗಳಾಗಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ. ತನಿಖಾ ಕಾಲದಲ್ಲಿಯೂ ಕೂಡ ಅತ್ಯಾಚಾರ ಸಂಬಂಧ ಆರೋಪ ದೃಢಪಡಿಸುವಂತಹ ಸಾಕ್ಷಾಧಾರಗಳು ಲಭ್ಯವಾಗಿರುವುದಿಲ್ಲ, ಸಾಕ್ಷಿದಾರರೆಂದು ಹೇಳಿರುವ ಪ್ರಗತಿಯವರ ವಿವರ ನೀಡಲು ಸಾಕ್ಷಿ-1 ರವರು ಹಿಂಜರಿದಿದ್ದು, ಅವರನ್ನು ವಿಚಾರಣೆಗೆ ಕರೆತರಲು ಕಾಲಾವಕಾಶ ಕೋರಿರುತ್ತಾರೆ. ಆದುದರಿಂದ ಪ್ರಕರಣದಲ್ಲಿ ಕಲಂ 376 ಮತ್ತು 420 ಐಪಿಸಿ ಗಳನ್ನು ಕೈಬಿಡಲಾಗಿರುತ್ತದೆ.

18) ಪ್ರಕರಣದಲ್ಲಿ 3((1)(w)(i)(ii), 3(1)(z), SC/ST (POA) Act ಗಳನ್ನು ಕೈಬಿಡಲು ಕಾರಣ:

ಪ್ರಕರಣದಲ್ಲಿನ ಎ-1 ರವರೊಂದಿಗೆ ಸಾಕ್ಷಿ-1 ರವರು ಅನ್ಯೋನ್ಯವಾಗಿಯೇ ಇದ್ದು, ಸಾಕ್ಷಿ-1 ಮತ್ತು ಎ-1 ರವರು ತಮ್ಮ ಜಾತಿಗಳ ಬಗ್ಗೆ ಪರಸ್ಪರ ಹೇಳಿಕೊಂಡಿರುವುದು ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ. ಇಬ್ಬರು ಜಾತಿ ಎಲ್ಲಿಯೂ ಗೊತ್ತಿತ್ತು ಎಂದು ಪ್ರಾಥಮಿಕವಾಗಿ ಸಾಕ್ಷಿ-1 ರವರು ನೀಡಿರುವ ದೂರಿನಲ್ಲಿ ಕಂಡುಬಂದಿರುವುದಿಲ್ಲ, ಸಾಕ್ಷಿ-1 ರವರು ಜಾತಿನಿಂದನೆಯಾಗಿರುವುದಾಗಿ ಹೇಳಿರುವ ಸ್ಥಳವು ಎ-1 ಆರೋಪಿಯ ವಾಸದ ಮನೆಯಾದ ಉತ್ತರ ಪ್ರದೇಶದ ಪ್ರಯಾಗ್ ರಾಜ್ ನಗರದ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ತೆಲಿಯಾರ್ ಗಂಜ್, ಕೈಲಾಶ್ ಪುರಿ, ಚಾಂದ್ವರ್ ಸರೋವರಿ, ಮನೆ ನಂ. 145ಬಿ/21/3ಜೆ/1 ಈ ಮನೆಯ ಒಳಗೆ ಹಾಲ್ ನಲ್ಲಿ, ಎಂದು ಹೇಳಿ ಸ್ಥಳ ತೋರಿಸಿದ್ದು, ಸದರಿ ಸ್ಥಳವು ಮನೆಯ ಒಳಗಿನ ಸ್ಥಳವಾಗಿರುತ್ತದೆ.

18(1) ವಾಸದ ಮನೆಯ ಒಳಗಡೆ ಹಾಲ್ನಲ್ಲಿ ಆರೋಪಿಗಳು ಪರ್ಯಾಯದಾರರಿಗೆ ಜಾತಿ ನಿಂದನೆ ಮಾಡಿರುತ್ತಾರೆಂದು ದೂರಿನಲ್ಲಿ ಆರೋಪಿಸಿದ್ದು, ಇದನ್ನು ಗಮನಿಸಿದಾಗ ಮತ್ತು ಸ್ಥಳವನ್ನು ಖುದ್ದ ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ ಘಟನೆ ನಡೆದ ಸ್ಥಳವು ಸಾರ್ವಜನಿಕ ಸ್ಥಳವಾಗಿಲ್ಲದೆ, ಸಾರ್ವಜನಿಕವಾಗಿ ಪರ್ಯಾಯದಿಗೇ ಜಾತಿನಿಂದನೆ ಆಗಿಲ್ಲದೆ ಇರುವುದರಿಂದ ಪರಿಶಿಷ್ಟ ಜಾತಿ ಮತ್ತು ಪರಿಶಿಷ್ಟ ಪಂಗಡದ ದೌರ್ಜನ್ಯ ತಡೆ ಕಾಯ್ದೆ ಕಲಂ 3(1) (10) ಎಸ್ಸಿ/ಎಸ್ಪಿ-1989 ಆಕ್ಟ್, ಅಡಿಯಲ್ಲಿ ಅಪರಾಧವಾಗುವುದಿಲ್ಲ ವೆಂದು ದಿನಾಂಕ:01-01-2016ನೇ ಸಾಲಿನಿಂದ ಜಾರಿಗೊಂಡ THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ACT, 2015 ರ ಕಲಂ 3(1)(ಎಸ್) ರಲ್ಲಿ abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view ಎಂದು ಉಲ್ಲೇಖಿಸಿರುವುದರಿಂದ ಈ ಕೇಸಿನಲ್ಲಿ ಆರೋಪಿತರು ಪರ್ಯಾಯದಿಗೇ ಯಾವುದೇ ಸಾರ್ವಜನಿಕ ಸ್ಥಳದಲ್ಲಿ ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ಅಪಮಾನಗೊಳಿಸದೆ ಇರುವುದರಿಂದ ಆರೋಪಿತರ ವಿರುದ್ಧ ಎಸ್ಸಿ/ಎಸ್ಪಿ ಕಲಂಗಳು ಅನ್ವಯ

ಆಗುವುದಿಲ್ಲ. ಅಲ್ಲದೇ ಪಿರ್ಯಾದುದುದಾರರು ಮತ್ತು ಆರೋಪಿತರಿಬ್ಬರೂ ಪರಿಶಿಷ್ಟ ಜಾತಿಗೆ ಸೇರಿದವರಾಗಿದ್ದು, ಜಾತಿ ನಿಂದನೆ ಅನ್ವಯವಾಗುವುದಿಲ್ಲ.

18(2) ಪ್ರಕರನದ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಯಾವುದೇ ಪ್ರಕರಣವು ಅಪರಾಧವಾಗುತ್ತದೆಯೇ ಅಥವಾ ಇಲ್ಲವೇ ಎಂಬ ಬಗ್ಗೆ ತನಿಖಾಧಿಕಾರಿಯವರು ಸುಪ್ರೀಂಕೋರ್ಟ್, ಉಚ್ಚ ನ್ಯಾಯಾಲಯಗಳು ಹಾಗೂ ಇತರೆ ನ್ಯಾಯಾಲಯಗಳ ತೀರ್ಪುಗಳನ್ನು ಪ್ರಕರಣದ ದೂರಿನ ಹಾಗೂ ಲಭ್ಯವಿರುವ ಸಂಗ್ರಹಿಸಿದ ದಾಖಲೆಗಳ ಜೊತೆಯಲ್ಲಿ ತಾಳೆ ಮಾಡಲೇಬೇಕಾಗುತ್ತದೆ. ಇದು ಭಾರತ ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 141, 144ರ ಪ್ರಕಾರ ತನಿಖಾಧಿಕಾರಿಯವರ ಹೊಣೆಯಾಗಿರುತ್ತದೆ ಅದರಂತೆ The Hon'ble Supreme Court judgement in, JT 2004(3) SC 7 M.A.Kuttappan V.E.Krishnan Nayanar and Anr, Criminal Appeal no. 450 of 1997 (From the Judgement and Order dated 21-02-97 of the Kerala High Court Crl.M.C. no.2192 of 1996 as follows)

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989- Section 3(1)(x) --Protection of Civil Rights Act 1955 - Section 7(1)(d) - offence under Act 1955 - Cognizance of Accused only uttering complaints as "Harijan" Nothing to show that by these words, accused insulted or attempted to insult. Held that section 7 of Act of 1955 was not attracted ಎಂದಿರುತ್ತದೆ.

18(3) ಅಲ್ಲದೇ ಜಾತಿ ನಿಂದನೆಯ ಕೃತ್ಯವು ಮನೆಯ/ ಕಟ್ಟಡದ ಒಳಗಡೆ ಜರುಗಿದ್ದಲ್ಲಿ ಎಸ್ಸಿ/ಎಸ್ತಿ ಕಲಂ 3(1)(ಆರ್)(ಎಸ್) ತಕ್ಷೀರುಗಳು ಅನ್ವಯವಾಗುವುದಿಲ್ಲ ಎಂಬ ಬಗ್ಗೆ ಮಾನ್ಯ ಕರ್ನಾಟಕದ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಕ್ರಿಮಿನಲ್ ಪಿಟಿಷನ್ ನಂ-3597/2022 ರಲ್ಲಿ, ರಿತೇಶ್ ಪಾಯಸ್ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪ್ರಕರಣದಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ಅಭಿಪ್ರಾಯಪಟ್ಟಿರುತ್ತದೆ. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place, within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435: (2008) 3 SCC (Cri) 527], it cannot be said to be a place within public view ಎಂದಿರುತ್ತದೆ. ಆದುದರಿಂದ, ಪ್ರಕರಣದಲ್ಲಿ ಕಲಂ 3((1)(w)(i)(ii), 3(1)(z), SC/ST (POA) Act ಗಳನ್ನು ಕೈಬಿಡಲಾಗಿದೆ.

20) ಸಾಕ್ಷಿ-1 ರವರ ಸ್ನೇಹಿತರಾದ ಸಾಕ್ಷಿ-8 ಪ್ರಮೋದ್ ರಾಜ್, ಆರೋಪಿ ಎ-1 ರವರ ತಾಯಿ ಸಹೋದರನಾದ ಸಾಕ್ಷಿ-4 ಅಜಯ್ ನಾರಾಯಣ್ ತಿವಾರಿ, . ಸಾಕ್ಷಿ-1 ರವರ ಸಹೋದರಿ ಸಾಕ್ಷಿ-11 ಅಂಜಲಿ

ಶರ್ಮ ರವರ ಹೇಳಿಕೆಗಳಿಂದ ಕಂಡುಬಂದಿರುವಂತೆ ಸಾಕ್ಷಿ-1 ರವರಗೆ ಎ-1 ರವರು ಮದುವೆಯಾಗುವುದಾಗಿ ನಂಬಿಸಿ, ಮೋಸ ಮಾಡಿರುತ್ತಾರೆಂದು ಕಂಡುಬಂದಿರುತ್ತದೆ, ಆದರೆ ಸಾಕ್ಷಿ-15 ಪ್ರಯಾಗ್ ರಾಜ್ಯ: ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್ ರವರು ನೀಡಿರುವ ದಾಖಲೆಯಂತೆ ಸಾಕ್ಷಿ-1 ರವರನ್ನು ಎ-1 ರವರು ವಿವಾಹನೋಂದಣಿಯಾಗಿರುತ್ತಾರೆ

19) ಕಲಂ 354(ಡಿ), 354(ಸಿ), 509, 504 ಐಪಿಸಿ ಮತ್ತು 66 (ಇ) ಐಟಿ ಕಾಯ್ದೆ ಮತ್ತು 3(2)(ಎ) (ದೌರ್ಜನ್ಯ ತಡೆ) ಕಾಯ್ದೆ ಅಡಿಯಲ್ಲಿ ಆರೋಪ ದೃಢಪಟ್ಟಿರುವುದು;

ಸಾಕ್ಷಿ-1 ರವರರು ಉತ್ತರಖಂಡ ರಾಜ್ಯದ ಜೋನ್ಸಾರಿ ಜಾತಿಗೆ ಸೇರಿದವರಾಗಿದ್ದು, ಜೋನ್ಸಾರಿ ಜಾತಿಯ ಪರಿಶಿಷ್ಟ ಪಂಗಡದ (ಎಸ್.ಟಿ.) ವರ್ಗಕ್ಕೆ ಬರುತ್ತದೆ, ಎಸ್.ಟಿ. ವರ್ಗದ ಜೋನ್ಸಾರಿ ಜಾತಿಗೆ ಸೇರಿದ ಸಾಕ್ಷಿ-1 ರವರೊಂದಿಗೆ ಎ-1 ಆರೋಪಿಯು ಅನ್ಯೋನ್ಯವಾಗಿದ್ದು, ಇಬ್ಬರೂ ಖಾಸಗಿಯಾಗಿದ್ದ ಸಮಯದಲ್ಲಿ ಹಾಗೂ ಸಾಕ್ಷಿ-1 ರವರ ಖಾಸಗಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋ ಮಾಡಿಕೊಂಡಿದ್ದು, ಚಾಟ್ ಮಾಡಿದ್ದು, ಅವುಗಳನ್ನು ಸೋಷಿಯಲ್ ಮೀಡಿಯಾದಲ್ಲಿ ಹಂಚಿಕೊಳ್ಳುವುದಾಗಿ ಹಾಗೂ ಸಾಕ್ಷಿ-1 ರವರ ಕುಟುಂಬಕ್ಕೆ ನೀಡುತ್ತೇನೆಂದು ಬೆದರಿಸಿ, ಎಸ್.ಟಿ. ಜಾತಿಗೆ ಸೇರಿರುವ ಮತ್ತು ಮಹಿಳೆಯಾಗಿರುವ ಸಾಕ್ಷಿ-1 ರವರ ಗೌರವಕ್ಕೆ ದಕ್ಕೆ ತಂದಿರುವುದು ಮತ್ತು ಬೆದರಿಕೆ ಆಕಿರುವುದು ಕಂಡುಬಂದಿದ್ದು, ಇದರಿಂದ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಅನ್ಯಾಯವಾಗಿರುತ್ತದೆ. ಆ ಕಾರಣದಿಂದ ಪ್ರಕರಣದಲ್ಲಿ ಕಲಂ 3(2)(ಎ) (ದೌರ್ಜನ್ಯ ತಡೆ) ಕಾಯ್ದೆಯು ಸಾಕ್ಷಾಧಾರಗಳಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ. ಮಹಿಳೆಯ ಖಾಸಗಿ ಫೋಟೋ ಮತ್ತು ವಿಡಿಯೋ ಮಾಡಿಕೊಂಡಿದ್ದು, ಚಾಟ್‌ಗಳನ್ನು ಸಂಗ್ರಹಿಸಿಟ್ಟುಕೊಂಡು ಬಿತ್ತರಿಸುವುದಾಗಿ ಬೆದರಿಸಿರುವುದು ಮತ್ತು ಫಾಲೋ ಮಾಡಿ, ಅವಮಾನ ಮಾಡಿದ್ದು, ಬೈದು, ಬೆದರಿಕೆ ಹಾಕಿರುವುದು ಸಾಕ್ಷಾಧಾರಗಳಿಂದ ಕಂಡುಬಂದಿರುವುದರಿಂದ ಕಲಂ ಕಲಂ 354(ಡಿ), 354(ಸಿ), 509, 504, 506 ಐಪಿಸಿ ಮತ್ತು ಕಲಂ 66 (ಇ) ಐ.ಟಿ. ಕಾಯ್ದೆ ಅಡಿಯಲ್ಲಿ ಆರೋಪ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಒಟ್ಟಾರೆಯಾಗಿ ಸದರಿ ಪ್ರಕರಣದ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಸಂಗ್ರಹಿಸಿರುವ ಸಾಕ್ಷಾಧಾರ, ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳು, ಸಂಗ್ರಹಿಸಿರುವ ದಾಖಲೆಗಳು ಹಾಗೂ ತಜ್ಞರ ಅಭಿಪ್ರಾಯ ವರದಿಗಳ ಆಧಾರದ ಮೇಲೆ ಪ್ರಕರಣದಲ್ಲಿನ ಆರೋಪಿ ಎ-1 ಅಭಿಷೇಕ್ ಮಿಶ್ರಾ ಈತನು ಕಲಂ 354(ಡಿ), 354(ಸಿ), 509, 504, 506 ಐಪಿಸಿ, ಕಲಂ 66 (ಇ) ಐ.ಟಿ. ಕಾಯ್ದೆ ಮತ್ತು ಕಲಂ 3(2) (ಎ) (ದೌರ್ಜನ್ಯ ತಡೆ) ಕಾಯ್ದೆ ಅಡಿಯಲ್ಲಿ ಆರೋಪವು ದೃಢಪಟ್ಟಿರುತ್ತದೆ. ಆದುದರಿಂದ ಸದರಿ ಆರೋಪಿ ಎ-1 ಅಭಿಷೇಕ್ ಮಿಶ್ರಾ ರವರ ವಿರುದ್ಧ ಕಲಂ 354(ಡಿ), 354(ಸಿ), 509, 504, 506, ಐಪಿಸಿ, ಕಲಂ 66 (ಇ) ಐ.ಟಿ. ಕಾಯ್ದೆ ಮತ್ತು ಕಲಂ 3(2) (ಎ) (ದೌರ್ಜನ್ಯ ತಡೆ) ಕಾಯ್ದೆ ಅಡಿಯಲ್ಲಿ ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯನ್ನು ಘನ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿರುತ್ತದೆ"

The summary of charge sheet contains vivid details of what the allegations are. Crime for offences punishable under Sections 376

and 420 of the IPC were also directed to be investigated into. While dropping those crimes, several offences under the Act have been dropped.

9. What is alleged now pursuant to filing of the charge sheet is, for the following offences:

"Sections 354-C, 354-D, 504, 506 and 509 of the IPC; Section 66E of the Information Technology Act, 2000 and Section 3(2)(v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989."

(Emphasis added)

The offences are the ones punishable under Sections 354-C, 354-D, 504, 506 and 509 of the IPC. These sections read as under:

"354-C. Voyeurism.—Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purpose of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354-D. Stalking.—(1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or**
- (ii) monitors the use by a woman of the internet, email or any other form of electronic communication,**

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or**
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or**
- (iii) in the particular circumstances such conduct was reasonable and justified.**

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either

description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine."

... ..

504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

... ..

506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

... ..

509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine."

(Emphasis supplied)

Section 354-C deals with voyeurism. The allegation against a man who watches or captures image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed. Section 354-D deals with stalking. Any man who follows a woman and contacts or attempts to contact such woman to foster personal interaction or monitors the woman on the internet, email or electronic communication commits offence of stalking. The other offences are Section 504 and 506 of the IPC viz., breach of peace and criminal intimidation and finally the IPC offences end with Section 509. Section 509 deals with gesture and intending to insult modesty of a woman.

10. Under the Information Technology Act what is alleged is Section 66E. Section 66E reads as follows:

"66-E. Punishment for violation of privacy.—Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Explanation.—For the purposes of this section—

- (a) "transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;
- (b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;
- (c) "private area" means the naked or undergarment clad genitals, public area, buttocks or female breast;
- (d) "publishes" means reproduction in the printed or electronic form and making it available for public;
- (e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that—
 - (i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or
 - (ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place."

(Emphasis supplied)

Whoever intentionally or knowingly captures, publishes or transmits the image of private area of a person without his or her consent is said to be committing the offence under Section 66E. Several descriptions are found with regard to capturing of images or making video. Hence, the petitioner will have to be tried for the aforesaid offence.

11. The other offence is the one punishable under Section 3(2)(v) of the Act. Section 3(2)(v) of the Act reads as follows:-

"3. Punishments for offences of atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

...
(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

...
(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;"

Any person who commits an offence against the person or property knowing that such person is a member of Scheduled Caste or Scheduled Tribe shall be punishable with imprisonment for life and with fine.

12. If the complaint and the summary of charge sheet are considered on the bedrock of the offences alleged, what would unmistakably emerge is, a few of the offences are loosely laid against the petitioner and a few are appropriately. Insofar as the allegation of voyeurism as obtaining under Section 354C is

concerned, the contents of the complaint and the summary of the charge sheet clearly meet the offence of voyeurism. The petitioner is alleged to have shot several videos of intimate moments or even videos of the parts of the body of the complainant. If this be the allegation and it being sustained while filing the charge sheet, it would undoubtedly meet the allegation of voyeurism. This Court, in the case of **VEERABHADRA SWAMY S V. STATE OF KARNATAKA**¹, has held as follows:

"11. If the complaint and the summary of the charge sheet are read in tandem, it would prima facie lead to the ingredients of Section 354C of IPC. Section 354C of IPC reads as follows:

"354C. Voyeurism.—Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine."

Section 354C of IPC deals with Voyeurism. Voyeurism has certain ingredients. Any man who watches, captures the images of a woman engaging in a private act would be committing an offence of voyeurism. Explanation would read, the private act to be including an act of watching carried out in a place, where it would

¹ Crl.P.2396 of 2024 decided on 10.06.2024

reasonably expected to provide privacy, which reads as follows:

"Explanation 1.- For the purpose of this section. "Private Act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear."

Therefore, the allegation against the petitioner is that he has indulged in placing a mobile phone in or inside or above the electric switch board to record the videos or the pictures of the complainant. The Police have filed the charge sheet after investigation.

12. The learned counsel appearing for the petitioner would seek to contend that the mobile phone seized cannot even take pictures or record videos. It is a matter of evidence, as in the considered view of the Court Section 354C of IPC, which has come into force by way of an amendment in the year 2013, as a purpose for introduction of the said provision. The High Court of Delhi in the case of **Sonu vs State, through SHO reported in 2023 SCC Online Del 1955**, considering the purport of Section 354C of IPC has held as follows:

"....."

SECTION 354C OF IPC. VOYEURISM : ANALYSIS AND FINDINGS

10. Voyeurism has been introduced as a sex crime against women in India by way of The Criminal Law (Amendment) Act, 2013. Since the appellant has been convicted and sentenced *inter alia* under Section 354C of IPC, it would be appurtenant to refer to the said provision, which is reproduced as under:

"354C. Voyeurism.-Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment

of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.-For the purpose of this section, "**private act**" includes an **act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear**; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.-Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section."

(Emphasis supplied)

11. Explanation 1 to Section 354C clarifies the meaning of 'private act'. When the definition of voyeurism is read alongwith the explanation, it would include within its ambit, an act of watching carried out by the perpetrator in a place used by a woman/victim where she is engaged in a 'private act' which, in the circumstances, would reasonably be expected by her to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear, or where she is using a lavatory, or where she is doing a sexual act that is not of a kind ordinarily done in public, and she has reasonable expectation that she would not be observed by the perpetrator or any other person at behest of the perpetrator; or where she consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated.

12. Learned counsel for the appellant had two-fold arguments, firstly that it is an admitted fact that the appellant stays in the jhuggi next to the jhuggi of the victim. Since the bathroom was situated in the common area outside their jhuggies, he could not have been convicted for voyeurism as he was merely standing outside his house which was his right. Secondly, it was argued that in the present case, the bathroom used by the victim being situated at a common public place cannot be termed as a private area but a public place and thus the act of bathing at such 'public place' cannot be held to be a 'private act'. He argues that in case, this Court holds to the contrary, in that case, several thousands of persons can be prosecuted merely for their presence at public places such as water parks, swimming pools, lakes, ponds or even while taking bath in rivers at religious places.

13. This Court, however, does not agree with the aforesaid contentions of learned counsel for the appellant as the same are contrary to law and cannot be interpreted in the way he argues.

(i) Private Act v. Public Act

14. As regards the first argument advanced by the learned counsel for appellant, it is to be noted that the bathroom in question was situated in an open area, but it was not an open public place as suggested by learned counsel for appellant. It is clear from the statements of the witnesses that the bathroom had small walls and a curtain used to be drawn at the time of taking bath by the victim. The contention that the act of taking bath cannot be considered a 'private act' as it was being done in a public place is not only meritless but also absurd. Taking bath in a bathroom by any person, whether a male or a female, is essentially a 'private act' as it is taking place inside the four walls of the bathroom.

15. In the present case, though, it is true that the bathroom was constructed outside the jhuggi of the victim at a public place, but it constituted of a covered four walled structure being used as a bathroom. The entrance of the bathroom used to be covered with a curtain at the time of taking bath, therefore, it cannot be held that the bathroom was a open public place. Similarly, there can be no doubt that the woman taking bath therein will be considered to be engaged in a 'private act' of taking bath and having reasonable expectation of not being seen by anyone.

16. The argument of the learned counsel for the appellant that the act of taking bath by the victim in the present case, instead of being a 'private act' became a 'public act' is totally meritless. Merely because a structure which is being used as bathroom by a woman does not have a door but only a curtain and temporary walls and it is situated outside her house does not make it a public place and the contention that the act of taking bath by the victim became a 'public act' instead of being a 'private act' for the said reason has to be outrightly rejected. It will also amount to holding that in case a woman takes bath in the bathroom inside her house, it remains a 'private act' and if she takes bath in a covered bathroom which is outside her house, will become a 'public act', which will be irrational. This Court therefore holds that the bathroom in question in this case was not a public place and the act of taking bath therein was a 'private act'."

13. If the facts obtaining in the case at hand are considered on the bedrock of what voyeurism is, it would become matter of trial for the petitioner to come out clean, not only for offence under Section 354C of IPC but even for other offences so alleged.

(Emphasis supplied)

Therefore, the petitioner will have to be tried for the offence under Section 354C.

13. Insofar as the offence punishable under Section 354D i.e., stalking is concerned, the allegation against the petitioner and the complainant is of sexual acts. Mere sending messages between the two or exchange of messages which contained profanity would not amount to stalking. Therefore, the offence of stalking is loosely laid against the petitioner.

14. The offences under Sections 504, 506 and 509 of the IPC are however be sustainable, as the complaint and the summary of the charge sheet clearly make out those offences. Any further elaboration of the statements recorded and their consideration in the subject petition would prejudice further proceedings before the

concerned Court against the petitioner. Therefore, this Court exercise restraint in going deep into those statements.

15. The other offence is under the Act. What is alleged is Section 3(2)(v). Whoever commits offence against a person or property knowing that such person is a member of Scheduled Caste or Scheduled Tribe is to be incurring the wrath of Section 3(2)(v) of the Act. As referred to in the section, it is clearly indicative of the fact that the petitioner has committed certain offences against the complainant. It is nobody's case that the petitioner did not know that the complainant belonged to Scheduled Tribe. Therefore, the said offence also is to be sustained.

16. A perusal at the statement, summary of the charge sheet and the submissions so made, both by the learned counsel for the petitioner and the respondents, are a maze of facts, which would amaze this Court to exercise its jurisdiction and obliterate entire proceedings in Special C.C.No.1029 of 2024. It becomes apposite to refer to the judgment of the Apex Court in the case of **KAPTAN**

SINGH v. STATE OF UTTAR PRADESH², wherein it is held as follows:

"....

9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 CrPC has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 CrPC quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition under Section 482 CrPC was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate

² (2021) 9 SCC 35

jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.**

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 CrPC to quash the proceedings is an exception and not a rule. **It is further observed that inherent jurisdiction under Section 482 CrPC though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 CrPC.** Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC.

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the

High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC.

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 CrPC is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 CrPC only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed."

(Emphasis supplied)

The Apex Court directs that the High Court exercising jurisdiction under Section 482 of the Cr.P.C., should not entertain, interdict or quash the proceedings if the issue would revolve round seriously disputed questions of fact.

17. The case at hand, as observed hereinabove, except the offence of stalking, revolves round seriously disputed questions of fact, which would require further proceedings before the concerned Court. Therefore, I decline to exercise my jurisdiction under Section 482 of the Cr.P.C., to obliterate the proceedings *qua* all

offences except the offence under Section 354D – stalking, as permitting further trial *qua* the said offence would undoubtedly become an abuse of the process of law.

18. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed in part.
- (ii) Proceedings in Special C.C.No.1029 of 2024 stand quashed only in respect of offence alleged under Section 354D of the IPC.
- (iii) Criminal Petition is dismissed *qua* all other offences.
- (iv) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioner under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings pending against him before the concerned Court or any other *fora*.

Consequently, I.A.No.2 of 2024 also stands disposed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT:MJ