

SUPREME COURT OF INDIA**Bench: Justices Sanjay Karol and Prasanna Balachandra Varale****Date of Decision: 23rd April 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2024

(Arising out of SLP(Crl.)No.8254/2023)

SANJU RAJAN NAYAR ... APPELLANT**VERSUS****JAYARAJ & ANR. ... RESPONDENTS****Legislation:**

Section 7(a) of the Prevention of Corruption Act, 1988

Sections of the Protection of Children from Sexual Offences Act, 2012 and
Indian Penal Code, 1860

Section 482 of the Criminal Procedure Code, 1973

Subject: The appeal challenges the High Court of Karnataka's decision dated 2nd January 2023, which quashed the FIR against the respondent under corruption charges, emphasizing the sufficiency of evidence and procedural adherence in criminal prosecution.

Headnotes:

Quashing of FIR – Insufficient Evidence Claims – High Court's Decision Reversed – The High Court had quashed an FIR implicating Respondent No.1 for lack of direct evidence of bribery and monetary demand – The Supreme Court found this approach legally unsustainable, noting the premature dismissal of credible investigatory evidence including a pendrive indicating involvement [Paras 1, 5, 7].

Departmental Proceedings versus Criminal Accountability – Respondent No.1's exoneration in departmental inquiry did not influence the criminal

proceedings where distinct evidentiary standards and investigation materials, like the pendrive, substantiated the allegations – Sanction for prosecution was appropriately accorded despite departmental exoneration [Paras 3, 8-9].

Restoration of Criminal Proceedings – The Supreme Court set aside the High Court’s order, reinstating the FIR for continuing the investigation and trial based on all available evidence and the sanctioned prosecution, thereby distinguishing between departmental and criminal evidences [Para 10].

Decision – Restoration of FIR – Supreme Court allows the appeal, quashes the High Court's judgment, and restores FIR for continuation of investigation and trial – Highlights discrepancy in evidence considered in departmental versus criminal proceedings – Emphasizes need for thorough examination of all factual and legal aspects at trial. [Paras 8-11]

Referred Cases:

- State of Haryana & Ors. V. Bhajan Lal & Ors., (1992) SCC Suppl.1 335

ORDER

Leave granted.

1. This appeal is directed against the judgment and order dated 2nd January, 2023 passed by the High Court of Karnataka at Bangalore in CrI.P.No.606/2022 titled Sri Jayaraj v. State of Karnataka, whereby under Section 482 Criminal Procedure Code, 1973 the High Court quashed the First Information Report¹ bearing No.63 of 2021 dated 8.12.2021 for the offence under Section 7(a) of the Prevention of Corruption Act, 1988, pending before the 23rd Additional City Civil and Sessions Judge, Bengaluru.

2. We have heard the learned counsel for the parties and also perused the written submissions filed by the parties across the Bar.

¹ 'FIR' for short

3. Respondent No.1 - Jairaj stands exonerated in the departmental proceedings in relation to an inquiry initiated on the basis of the complaint with regard to the allegations of demand for bribe. As a consequence thereof, the FIR in Crime No.63/2021 registered on the basis of the complaint made by the instant appellant, stands quashed by the High Court of Karnataka at Bengaluru vide its impugned judgment.

4. Briefly set out, the facts are, that the marriage of the instant appellant was solemnized on 21.7.2006. During the subsistence of such marriage, his wife filed a complaint with the SHO Police Station Krishna Rajapuram Police Station alleging the appellant to have sexually harassed his minor child while visiting the child in the school, which resulted into registration of FIR No.555/2018 under the different provisions of the Protection of Children from Sexual Offences Act, 2012 and Indian Penal Code, 1860. Respondent No.2, who was entrusted with the investigation of the said FIR, demanded and accepted monetary consideration from the instant appellant. Since the demands of bribe continued, the instant appellant brought the factum of such bribe to the notice of Karnataka Human Rights Commission, Bangalore, by placing on record the evidence *inter alia* in the shape of a pendrive. As a result thereof, based on the preliminary inquiry FIR was registered with the Anti Corruption Branch, City Bangalore Police Station on 8.12.2021 being Crime Case No.63 of 2021 under the provisions of Prevention of Corruption Act, 1988. Based on the preliminary investigation, the authorities also accorded sanction for prosecuting Respondent No.1.

5. In quashing the FIR the High Court observed that“there is no direct evidence, where this petitioner has demanded any money or bribe from the complainant”. Also that “there is no material to proceed against this accused No.1. That apart, it is worth to mention that there was complaint registered against respondent No.2 in Crime No.555/2018 for both offences under Sections POCSO as well as Section 354 of IPC on the complaint filed by the wife of respondent No.2. During the investigation, the petitioner/accused No.2 said to have summoned the complainant to the police station who is said to have been harassed by them and was demanded money. But later, only in order to overcome the complaint filed against respondent No.2, by his wife this complaint was filed for taking revenge against the police as they had

summoned the respondent No.2 to the police for the purpose of investigation in Crime No.555/2018”.

6. At this point in time, we observe that two persons were named as accused whereas the petition for quashing was preferred only by one of the accused, namely, Jairaj. The FIR was categorical that ASI Sivakumar (Accused No.2) had received money and that Police Inspector Jairaj had assured that they would provide chargesheet in lieu of Rs.80,000/and that the complainant would also have to pay Rs.500 per week when he visits the police station, as a condition of bail.
7. In the aforesaid backdrop, in the considered view of this Court, the approach adopted by the Courts in quashing the FIR in the attending facts and circumstances, is legally unsustainable. It ventured into an inquiry, unwarranted at this stage, holding that there is no direct evidence that the present respondent had demanded any money and that there was no material to proceed against him, completely forgetting, if not ignoring the material which had surfaced during the course of investigation, amongst others, the pendrive, allegedly, indicating his complicity in the crime.
8. Under these circumstances, in the attending facts and circumstances, we allow the appeal, more so when despite the accused having been exonerated in the departmental proceedings yet the competent authority, vide Annexure P3 proceeded to accord sanction for prosecution. The High Court, in our considered view, failed to account for the principles enunciated by this Court in the case of State of Haryana & Ors. v. Bhajan Lal & Ors., (1992) SCC Suppl.1 335.
9. We may also observe that it was the pleaded case of the Lokayukta before the High Court that the continuance of the trial was not on the very same evidence as what weighed with the authorities in exonerating the employee in the departmental proceedings. This fact, also appears not to have been considered by the High Court in its correct perspective.

10. For the aforesaid reasons, the present appeal is allowed and the impugned judgment and order dated 2nd January, 2023 passed by the High Court of Karnataka at Bangalore in CrI.P.No.606/2022 titled Sri Jayaraj v. State of Karnataka is quashed and set aside.

11. Consequentially, the FIR subject matter of the present proceedings stands restored to be taken to its logical end, in accordance with law. We clarify that all questions of fact and law, as also other pleas raised, are left open for the parties to be agitated, if so advised and desired, before the appropriate forum at the appropriate stage.

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