



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 2<sup>ND</sup> DAY OF JUNE, 2023**

**BEFORE**

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

**CRIMINAL PETITION NO. 10599 OF 2022**

**BETWEEN:**

-----

...PETITIONER

(BY SRI. ARNAV A BAGALWADI., ADVOCATE)

**AND:**

1. STATE OF KARNATAKA,  
BY PAPER TOWN POLICE STATION,  
BHADRAVATHI,  
REPRESENTED BY SPP OFFICE,  
HIGH COURT OF KARNATAKA,  
BANGALORE - 560 001.

Digitally signed  
by PADMAVATHI  
B K  
Location: HIGH  
COURT OF  
KARNATAKA





SHIVAMOGGA - 577 201

...RESPONDENTS

(BY SRI. MAHESH SHETTY., HCGP FOR R-1 AND R-2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE FIR DATED 22.04.2019 FILED BY THE 1st RESPONDENT PAPER TOWN POLICE STATION IN CR.NO.62/2019 AND CONSEQUENTLY, CHARGE SHEET DATED 01.09.2020 AND ENTIRE PROCEEDINGS IN C.C.NO.30801/2021 PENDING ON THE FILE OF THE XLII ACMM (SPL. COURT TO DEAL WITH CRIMINAL CASES RELATED TO SITTING AS WELL AS FORMER MP/MLA TRIABLE BY MAGISTRATE OF KARNATAKA) FOR THE ALLEGED OFFENCE P/U/S 177(H) OF IPC AND CONSEQUENTLY.

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

**ORDER**

The petitioner calls in question the proceedings in C.C.No.30801/2021 which arose out of crime in crime No.62/2019 for the following offences punishable under Section 171H of the Indian Penal Code, 1860 and under Section 133 of the Representation of People Act, 1951 and 1988.



2. Heard Sri. Arnav A. Bagalwadi, learned counsel appearing for the petitioner, Sri. Mahesh Shetty, learned HCGP appearing for the respondents.

3. Learned counsel appearing for the petitioner submits that against accused No.1 and 5 in the same crime, a Co-ordinate Bench of this Court in CrI.P.No.4524/2022 has quashed the proceedings in terms of its order dated 27.09.2022. The order passed by the Co-ordinate bench reads as follows:

*"Petitioners who are accused Nos. 1 and 5 have called in question the validity of the proceedings in C.C.No. 30801/2021 pending on the file of the XLII Additional Chief Metropolitan Magistrate (Special Court to deal with Criminal Cases related to sitting as well as former MPs/MLAs triable by Magistrate in Karnataka).*

*2. Respondent No.2 while working as an officer offlying squad has made out information to the police authorities regarding violation of election code of conduct while campaigning. The information that was made out to the police authorities was that, on 20.04.2019 at 2.00 p.m. when the de-facto complainant was on rounds, he noticed that the accused were campaigning at 5.00 p.m. in front of the Hiriyur Open Auditorium in an open vehicle bearing No.KA34-M-8472. It was further revealed upon enquiry that no permission was obtained to campaign at that place. Accordingly, information came to be made out to the police authorities as*



against the accused who were campaigning to initiate appropriate proceedings in accordance with law. The first information report came to be lodged on 22.04.2019 as regards the offences punishable under Section 171H of IPC and Section 133 of the Representation of People Act.

3. After investigation, charge sheet has been filed. Column No.17 of the charge sheet reads as follows:

"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ:

ದಿನಾಂಕ:- 20-04-2019 ರಂದು ಸಂಜೆ 5.00 ಓಂ ಗಂಟೆಗೆ ಭದ್ರಾವತಿ ಪೇಪರ್ ಟೌನ್ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಹಿರಿಯೂರು ಗ್ರಾಮದಲ್ಲಿ ಸಾಕ್ಷಿ 01 ರವರು ಸಾಕ್ಷಿ 02 ರಿಂದ ಸಾಕ್ಷಿ 03 ರವರೊಂದಿಗೆ ಗಸ್ತಿನಲ್ಲಿದ್ದಾಗ ಹಿರಿಯೂರು ಗ್ರಾಮದ ಬಯಲು ರಂಗಮಂದಿರದಲ್ಲಿ ಕಾಲಂ ನಂ 12 ರಲ್ಲಿ ಕಂಡ ಆಪಾದಿತರುಗಳು 2019 ರ ಲೋಕಸಭಾ ಶಿವಮೊಗ್ಗ ಕ್ಷೇತ್ರದ ಮೈತ್ರಿ ಪಕ್ಷದ ಅಭ್ಯರ್ಥಿ ಮಧು ಬಂಗಾರಪ್ಪ ರವರ ಪರವಾಗಿ ಕೆಂಪು 34 ಎಂ 84.72 ರ ತೆರೆದ ವಾಹನದಲ್ಲಿ ಚುನಾವಣಾಧಿಕಾರಿಯವರಿಂದ ಯಾವುದೇ ಅನುಮತಿಯನ್ನು ಪಡೆದುಕೊಳ್ಳದೇ ಸಾರ್ವಜನಿಕರನ್ನು ಸೇರಿಸಿಕೊಂಡು ಬಹಿರಂಗ ಪ್ರಚಾರ ಮಾಡಿ ಚುನಾವಣಾ ನೀತಿ ಸಂಹಿತೆಯ ಉಲ್ಲಂಘನೆ ಮಾಡಿರುವುದು ಈ ವರೆಗೂ ನಡೆಸಿರುವ ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡ ಆಪಾದಿತರುಗಳ ಮೇಲೆ ಕಲಂ 171 (ಹೆಚ್) ಐಪಿಸಿ ರೀತ್ಯಾ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿದ ದೋಷಾರೋಪಣಾ ಪತ್ರ".

4. Thus, it is clear that the only offence made out in the charge sheet is Section 171H of IPC. Section 171H of IPC is an offence that relates to illegal payments in connection with an election. The offence as made out under Section 171H is as regards incurring or authorizing expenses on account of holding of any public meeting or making expenditure relating to advertisement, circular or



publication or for the purpose of promoting or procuring the election of such candidate. It is clear that expenditure to be incurred must be with general or special authority in writing of the candidate. The information given to the police authorities relate to the act of campaigning without permission and that is also the sum and substance of the charge sheet at Column No.17, which is reproduced above. Clearly, the facts that have made out the offence is not the offence under Section 171H of IPC. Charge sheet filed for offence has nothing to do with the facts as made out in the complaint as recorded in the FIR as well as made out in Column No.17 of the charge sheet.

5. It is necessary to state that apart from the matter on merits, the procedure under Section 155 of Cr.P.C. also regarding obtaining of permission for non-cognizable offence has not been followed. It is necessary to observe that the investigation that is conducted is clearly sloppy investigation and there appears to be no bonafides in making genuine efforts to file charge sheet. Keeping in mind the nature of offence made out as narrated above the offence under Section 171H of IPC has nothing to do with the facts as made out in the FIR and charge sheet. It is only expected that serious efforts be made by those entrusted with duties to ensure adherence to election code of conduct which would go a long way in preserving purity of the election process.

6. Accordingly, the proceedings in C.C.No. 30801/2021 pending on the file of the XLII Additional Chief Metropolitan Magistrate (Special Court to deal with Criminal Cases related to sitting as well as former MPs/MLAs triable by Magistrate in Karnataka), is quashed insofar as the petitioners are concerned.

7. \* Criminal petition is **disposed off.**'''



4. Learned HCGP would admit that the Co-ordinate Bench has quashed the proceedings against accused Nos.1 and 5 and the offences alleged against petitioner/accused No.2 are identical to what was alleged against accused Nos.1 and 5. Therefore, for the very reasons rendered by the Co-ordinate Bench, quashing the proceedings against the present petitioner also stands quashed.

Ordered accordingly.

**Sd/-  
JUDGE**

JY  
CT:STK