



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 9809 OF 2022

BETWEEN:

1. NARAYANA GOWDA J S

2. RAMAKRISHNA V

...PETITIONERS

(BY SRI. A.S.PONNANNA, SENIOR COUNSEL FOR
SRI SURYA MUKUNDARAJ L.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY NELAMANGALA TOWN POLICE STATION
REPRESENTED BY THE STATE
PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560001.





2. SRI NARAYANA RAO K R
ASSISTANT SUB INSPECTOR
AGED ABOUT 49 YEARS
NELAMANGALA TOWN POLICE STATION
BENGALURU-560123.

...RESPONDENTS

(BY SRI KIRAN S.JAVALI, SPP-I ALONG WITH
SRI K.S.ABHIJITH, HCGP)

THIS CRL.P FILED U/S.482 CR.P.C PRAYING TO QUASH FIR AS AGAINST PETITIONERS IN CRIME NO.139/022 REGISTERED BY THE 1ST RESPONDENT NELAMANGALA P.S., PENDING BEFORE THE HONBLE 2ND ADDL.CIVIL JUDGE AND J.M.F.C, NELAMANGALA FOR THE OFFENCES P/U/S 3(1) OF PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984 SECTION 3 OF KARNATAKA OPEN PLACE DISFIGUREMENT ACT, 1951 AND 1981 AND SECTION 290 OF IPC AND GRANT RELIEFS TO THE PETITIONER HEREIN.

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

ORDER

The petitioners are before this Court calling in question registration of crime in Crime No.139/2022 registered for the offences punishable under Section 3(1) of the Prevention of Damage to Public Property Act, 1984, Section 3 of the Karnataka Open Place Disfigurement Act and Section 290 of the IPC, 1860.



2. Heard the learned Senior counsel Sri.A.S.Ponnanna appearing for the petitioners and Sri.Kiran.S.Javali, learned State Public Prosecutor-I along with Sri.K.S.Abhijith, learned High Court Government Pleader for respondents.

3. Brief facts that lead the petitioners to this Court as borne out from the pleadings are as follows:

The 1st petitioner is a practicing Advocate and a President of the Indian Youth Congress, Nelamangala Assembly constituency. The 2nd petitioner is also a practicing Advocate and President of the legal cell of the Congress for the Nelamangala Assembly Constituency. A crime comes to be registered against the petitioners in Crime No.139/2022 on 22.09.2022 for the afore-quoted offences. It is the allegation of the complainant that he was on night beat duty and comes across three persons pasting bills/posters on the walls in public places and when they tried to catch them they ran away and later they were chased and caught and when questioned they informed that two people i.e, the petitioners herein, over telephone had instructed them to paste bills/posters all over



Nelamangala town. Based upon the said incident, the crime comes to be registered. Registration of the crime is what drives the petitioners to this Court.

4. Learned senior counsel Sri.A.S.Ponnanna would submit that the very registration of the crime against the petitioners is contrary to law, as the provisions do not get attracted to any act of the petitioners and therefore, seeks quashment of the entire proceedings.

5. Per-contra, the learned High Court Government Pleader would refute the submissions and would contend that the matter is still at the stage of investigation and therefore, this Court should not interfere at this stage and seeks dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the learned counsel for both the parties and perused the material on record.



7. The incident that lead to registration of the crime against the petitioners is the pasting of bills/posters in the Nelamangala City constituency. The allegation against the petitioners is that they have telephonically instructed the pasting of bills/posters in Nelamangala town within the precincts of the police station in which the crime comes to be registered for the afore-said offences. The offence punishable under Section 3(1) of the Prevention of Damage to Public Property Act, 1984 reads as follows:

"3. Mischief causing damage to public property.—
(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine."

The Prevention of Damage to Public Property Act mandates that whoever commits mischief by doing any act in respect of any public property shall be punished with a term which may extend up to 5 years. Mischief is not defined under the Prevention of Damage to Public Property Act. Section 425 of the IPC defines what is Mischief and reads as follows:

"425. Mischief.—*Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the*



destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly."

Mischief would mean whoever intends to cause wrongful loss or damage to the public or to any person or causes destruction of the property would be guilty of mischief. The allegation against the petitioners is that they have telephonically instructed pasting of the bills/posters which cannot mean that they would become guilty of the provisions of the Prevention of Damage to Public Property Act, as they have not done any act that would become an offence under the Act. If they have not done any act that would become offence under the provisions of the Prevention of Damage to Public Property Act, the provisions of the Karnataka Open Place Disfigurement Act also cannot be laid against them, as the allegation against the petitioners



admittedly is that they have telephonically instructed some other accused to lay the posters.

8. In the considered view of this Court, the allegations made against the petitioners would not attract any of the offences either under Prevention of Damage to Public Property Act or under the Karnataka Open Place Disfigurement Act. For the aforesaid reasons, I deem it appropriate to terminate the proceedings against the petitioners. Wherefore, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Registration of crime against the petitioners in Crime No.139/2022 pending before the II Additional Civil Judge and JMFC, Nelamangala stands quashed.
- (iii) 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 petitioners and shall not bind or influence the investigation against any other accused.



Ordered accordingly.

**Sd/-
JUDGE**

VM
List No.: 1 SI No.: 59

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