



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

CRIMINAL PETITION NO.200023/2023

C/W

CRIMINAL PETITION NOS.201460/2022,
201461/2022 & 201462/2022

IN CRL.P.NO.200023/2023

BETWEEN:

TIMES NOW BCCL
TELEVISION DIVISION OF:
BENNETT COLEMAN AND
COMPANY LIMITED
(ERSTWHILE TIMES GLOBAL
BROADCASTING COMPANY LIMITED)

CORPORATE OFFICE AT:

TRADE HOUSE, GROUND FLOOR,
KAMALA MILLS COMPOUND,
LOWER PAREL MUMBAI-400013,
REPRESENTED BY ITS
MS. KIRTIMA MARAVOOR,
THE AUTHORIZED REPRESENTATIVE
OF THE PETITIONER

...PETITIONER

(BY SRI PAVAN NARANG, ADVOCATE FOR
SRI GOWTHAMDEV C. ULLAL, ADVOCATE)

AND:

SRI BHOJARAJ R. PATIL



...RESPONDENT

(BY SRI SANTOSH S. PATIL, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE PCR NO.210/2017 FILED ON 07.03.2017 VIDE ANNEXURE-B FILED BY THE RESPONDENT BEFORE THE LEARNED V-ADDL. JMFC, KALABURAGI, INSOFAR AS IT RELATES TO THE PRESENT PETITIONER AND ETC.

IN CRL.P.NO.201460/2022

BETWEEN:

MR. AROON PURIE

NOW PRESENTLY RESIDING AT,

MR. AROON PURIE,

...PETITIONER

(BY SRI HRISHIKESH BARUAH, ADVOCATE FOR
SRI SUDARSHAN M., & SRI B. PRAMOD, ADVOCATES)



AND:

SRI BHOJARAJ PATIL

...RESPONDENT

(BY SRI SANTOSH S. PATIL, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE PCR NO.210/2017 FILED ON 07.03.2017 (ANNEXURE-E) FILED BY THE RESPONDENT BEFORE THE LEARNED V-ADDL. JMFC, KALABURAGI, INSOFAR AS IT RELATES TO THE PRESENT PETITIONER AND ETC.

IN CRL.P.NO.201461/2022

BETWEEN:

1. RAJDEEP SARDESAI
CONSULTING EDITOR

RAJDEEP SARDESAI,

2. SHIV AROOR, DY. EDITOR,



...PETITIONERS

(BY SRI HRISHIKESH BARUAH, ADVOCATE FOR
SRI SUDARSHAN M., &
SRI B. PRAMOD, ADVOCATES)

AND:

SRI BHOJARAJ PATIL

...RESPONDENT

(BY SRI SANTOSH S. PATIL, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF
CR.P.C., PRAYING TO QUASH THE PCR NO.210/2017 FILED ON
07.03.2017 (ANNEXURE-E) FILED BY THE RESPONDENT BEFORE THE
LEARNED V-ADDL. JMFC, KALABURAGI, INsofar AS IT RELATES TO
THE PRESENT PETITIONERS AND ETC.

IN CRL.P.NO.201462/2022

BETWEEN:

INDIA TODAY, INDIA TODAY GROUP,
MEDIAPLEX, FC-8, SECTOR 16A,
FILM CITY, NOIDA-201301,
REPRESENTED BY ITS
EDITOR IN CHIEF AND CHAIRMAN
MR. AROON PURIE

(NOW PRESENTLY RESIDING AT)

T.V. TODAY NETWORK LIMITED,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956



HAVING ITS REGISTERED OFFICE
AT F-26, FIRST FLOOR,
CONNAUGHT CIRCUS,
NEW DELHI-110001.
AND HAVING ITS CORPORATE
OFFICE AT.
INDIA TODAY MEDIAPLEX,
FC-8, FILMCITY, SECTOR 16-A, NOIDA,
UTTAR PRADESH-201301
THROUGH ITS AUTHORIZED
REPRESENTATIVE
MR. M.N. NASSER KABIR

...PETITIONER

(BY SRI HRISHIKESH BARUAH, ADVOCATE FOR
SRI SUDARSHAN M., &
SRI B. PRAMOD, ADVOCATES)

AND:

SRI BHOJARAJ PATIL

...RESPONDENT

(BY SRI SANTOSH S. PATIL, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF
CR.P.C., PRAYING TO QUASH THE PCR NO.210/2017 FILED ON
07.03.2017 (ANNEXURE-F) FILED BY THE RESPONDENT BEFORE THE
LEARNED V-ADDL. JMFC, KALABURAGI, INSOFAR AS IT RELATES TO
THE PRESENT PETITIONER AND ETC.

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



ORDER

Heard Sri Hrishikesh, Sri Pavan Narang and Sri B.Pramod, learned counsel representing the petitioners and Sri Santosh S. Patil, learned counsel for the respondent.

2. These petitions are filed by the petitioners challenging the order dated 19.10.2019 issuing summons to the petitioners and ordering to register the case for the offences punishable under Sections 499 and 500 r/w Section 149 of IPC by the learned V-Additional JMFC, Kalaburagi, in C.C.No.5957/2019.

3. Brief facts which are necessary for disposal of the present petitions are as under:

A sting operation has been conducted when the complainant was having a discussion in Hotel Lalit Ashok at Bengaluru on 27.05.2016. Rajyasabha elections were being held at that juncture and there was a conversation with regard to the politicians leaving one political party



and joining another party perhaps by luring them with money. The transcription of conversation *prima facie* reveal that the complainant has also spoken few sentences which are *per se* injurious to the good and sound political system and the guidelines prevailing in the political parties in the country. Since the sentences spoken by the complainant were against the said norms, his opinion which was recorded in the sting operation was aired in the electronic media and were published in the print media.

In respect of the said incident, the respondent/complainant got annoyed and he felt that he has been duped and therefore, he lodged the complaint with High Grounds Police Station, Bengaluru and a case came to be registered in Crime No.92/2016 for the offences punishable under Sections 417, 420, 468, 153A 120B r/w Section 34 of IPC and Section 65 of Information Technology Act, 2000. Further, criminal action in the said case is stayed by the Co-ordinate Bench of this Court in Criminal Petition No.3869/2017. Till today, no efforts have



been made by the defacto complainant to get the matter listed for final disposal and to have a logical end with regard to the said criminal case.

When the matter stood thus, it is the grievance of the respondent/complainant that by publication of the conversation which is part of the sting operation, his fame in his constituency has been reduced to such an extent that he has to lose the assembly election which was held in the year 2018. He lodged a private complaint in P.C.No.210/2017 with learned V-Additional JMFC, Kalaburagi, seeking action against the petitioners herein for the offences punishable under Sections 499 and 500 of IPC.

After receipt of the private complaint, the learned Magistrate was required to follow the procedure as contemplated under Sections 200 and 202 of Cr.P.C., for taking the matter to the next level. In pursuance thereof, the sworn statement of the complainant was sought to be recorded. As could be seen from the material on record,



instead of recording the sworn statement, the learned trial Magistrate has allowed examination-in-chief to be conducted by a Lawyer on behalf of the complainant. Based on such sworn statement (examination-in-chief) and also placing reliance on 09 documentary evidence which were also exhibited during the course of recording the sworn statement and marked as Exs.P1 to P9, the learned Trial Magistrate proceeded to issue summons.

4. Being aggrieved by the order of issuing summons, the petitioners are before this Court in these petitions filed under Section 482 of Cr.P.C., with the following prayers:

"Criminal Petition No.200023/2023

Wherefore, it is most respectfully prays that this Hon'ble Court may be pleased to :-

A. Quash the PCR No.210/2017 filed on 07.03.2017 vide Annexure-B filed by the Respondent before the Learned V Additional JMFC, Kalaburagi, in so far as it relates to the present Petitioner.



B. Quash the entire proceedings being registered in C.C. No. 5957/2019 (PCR No.210/2017) pending before 'Vth Additional Judicial Magistrate First Class, Kalaburagi' vide Annexure-C in respect of offence U/s 499, 500 R/w 149 of IPC, in so far it relates to the present Petitioner.

C. Consequently, Set aside the summoning order dated 19.10.2019 passed by the Learned Trial Court in C.C. No. 5957/2019 (PCR No.210/2017) pending before the court of Ld. Vth Additional Judicial Magistrate First Class, 'Kalaburagi' vide Annexure-D and all further proceedings in the complaint in so far as it relates to the present Petitioner.

D. Pass/Issue any such/other suitable order or direction which this Hon'ble Court may deem just, fit and proper in favour of the Petitioner under the circumstances of the.

Criminal Petition No.201460/2022

Wherefore, the petitioner humbly prays that this Hon'ble Court may be pleased to:-

A] Quash the PCR No. 210/2017 filed on 7.3.2017 (Annexure-E) filed by the Respondent before the Learned V Additional JMFC, Kalaburagi in so far as it relates to the present Petitioner;

B] Set aside the Order dated 19.10.2019 (Annexure-H) passed by the Learned V Additional



JMFC, Kalaburagi in C.C.no.5957/2019 in so far as it relates to the present Petitioner;

C] Quash the proceedings of the Respondent bearing C.C No.5957/2019 pending on the file of the Learned V Additional JMFC, Kalaburagi in respect of offence under Section 499, 500 R/W 149 of IPC (Annexure-J) in so far as it relates to the present Petitioner; and

D] Pass any such further Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present Case in interest of justice and equity.

Criminal Petition No201461/2022

Wherefore, the petitioners humbly pray that this Hon'ble Court may be pleased to :-

A] Quash the PCR No. 210/2017 filed on 7.3.2017 (Annexure-E) filed by the respondent before the Learned V Additional JMFC, Kalaburagi in so far as it relates to the present Petitioners;

B] Set aside the Order dated 19.10.2019 (Annexure-H) passed by the Learned V Additional JMFC, Kalaburagi in C.C.no.5957/2019 in so far as it relates to the present Petitioners;



C] Quash the proceedings of the Respondent bearing C.C No.5957/2019 pending on the file of the Learned V Additional JMFC, Kalaburagi in respect of offence under Section 499, 500 R/W 149 of IPC (Annexure-J) in so far as it relates to the present Petitioners; and

D] Pass any such further Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present Case in the interest of justice and equity.

Criminal Petition No.201462/2022

A] Quash the PCR No. 210/2017 filed on 7.3.2017 (Annexure-F) filed by the respondent before the Learned V Additional JMFC, Kalaburagi in so far as it relates to the present Petitioner;

B] Set aside the Order dated 19.10.2019 (Annexure-J) passed by the Learned V Additional JMFC, Kalaburagi in C.C.no.5957/2019 in so far as it relates to the present Petitioner;

C] Quash the proceedings of the Respondent bearing C.C No.5957/2019 pending on the file of the Learned V Additional JMFC, Kalaburagi in respect of offence under Section 499, 500 R/W 149



of IPC (Annexure-K) in so far as it relates to the present Petitioner; and

D] Pass any such further Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present Case in interest of justice and equity.”

5. Several grounds have been raised to hold that the order issuing summons is bad in law. During the course of arguments, learned counsel representing the petitioners have addressed their arguments by reiterating the grounds urged in the petitions. Learned counsels for the petitioners have also placed reliance on number of the decisions rendered by the Hon'ble Apex Court and other High Courts to buttress their arguments and sought for quashing of the entire proceedings itself.

6. *Per contra*, learned counsel for the respondent/complainant supported the impugned order stating that *prima facie* grounds are made out to proceed against the petitioners for the offences punishable under Sections 499 and 500 of IPC and therefore, petitions filed by the



petitioners are too premature and sought for dismissal of the same.

7. In reply, learned counsels representing the petitioners contended that the order of issuing summons is passed in mechanical manner which is *per se* visible from the fact that the learned Magistrate has also taken cognizance for the offence punishable under Section 149 of IPC when no such allegations are found from the complaint averments.

8. In the light of the arguments advanced on behalf of the parties, this Court perused the material on record meticulously.

9. Though learned counsels for the petitioners argued strenuously and with vehemence about the merits of the matter, having regard to the inherent procedural lapses committed by the learned Magistrate, this Court is of the opinion that further discussion on the merits of the



matter is unnecessary for the disposal of the case on hand.

10. Admittedly, the learned Magistrate has adopted a wrong procedure in allowing the advocate of the complainant to examine the complainant in chief when his sworn statement is recorded. Catena of judicial pronouncements of this Court has cautioned the District Judiciary that such a procedure is impermissible and it has to be discontinued. Despite such reported judicial pronouncements, the learned Magistrate has committed a grave error in allowing the examination-in-chief to be conducted while sworn statement of the complainant is recorded. Further, the same is made as a basis for assessing the *prima facie* case to summon the petitioners herein.

11. In this regard, this Court places its reliance on the decision of the Division Bench of this Court in the case of ***Naganagouda Veeranagouda Patil and Another vs. Malatesh H. Kulkarni and Others*** reported in ***ILR 1997***



KAR 2091. The relevant portion of the said decision reads as under:

"5. We need to record here that the learned Advocates who represented the petitioners vehemently submitted that if the complainant's learned Advocate were to be permitted to carry out the examination-in-chief that it was not only a breach of the provisions of Section 200, Cr.P.C. but that it would completely nullify the provisions of that section and would in fact have the totally opposite effect of what was originally intended by the Legislature when this section was incorporated in the Cr.P.C. in 1973. They have demonstrated to us, and perhaps with considerable justification that a private complaint presented to the learned Magistrate is invariably drafted by an Advocate and that therefore, there could be a certain degree of padding, that there could be also a skillful orientation of facts, a clever plant in the projection and a skillful effort to bring the complaint within the ambit of the four corners of a penal section and that the sum total of this artful exercise very often results in process being issued in criminal cases against the opposite party even though there may not have been justification to do so. The learned Advocates have pointed out that this sets of a total chain re-action in so far as a lot of harassment is



caused to the accused even during the service of process and thereafter, and that having regard to the load on the trial Courts and the appeal Courts that an accused is required to contend with the proceeding for a long period of time, to undergo harassment and expenditure, as it is an uphill task to demonstrate finally that there was no justification for the issue of process. We do see considerable force in this argument because the whole purpose of enacting Section 200 Cr.P.C. was in order to weed out unjustified litigation and the immediate fall out of such unjustified complaints is the heavy burden on the Courts until those proceedings are finally disposed of. Learned Advocates did also demonstrate to us the inevitable side effects of such litigations which could be used to coerce parties into settlements which is not the intention of the law and judicial process can never be abused with this end in view. The effort on the part of the learned Advocates was directed towards impressing on the Court the absolute need to tighten up the scrutiny procedure for purposes of ensuring that only valid and genuine complaints survive and that all the others are eliminated at the scrutiny stage. They have therefore submitted that the whole purpose of enacting Section 200 Cr.P.C. would be frustrated completely if the complainant's learned Advocate were to be permitted to carry out



the examination-in-chief because in that event the complaint would be bodily reproduced in the examination-in-chief and there would be less scope for the Presiding Judge to be able to assess the genuineness of the grievance that has been projected. It was therefore submitted that it is absolutely imperative that the learned Advocate be precluded from taking any part in the scrutiny process so that the Court has an unrestricted opportunity of independently examining the complaint, ascertaining from the complainant and the witnesses as to what the true position is and deciding whether it should be entertained or not.”

12. Further, Section 200 of Cr.P.C., enjoins a mandatory duty on the Magistrate to examine the complainant and the witnesses present, if any. Therefore, mere examination of complainant alone would not be sufficient to take cognizance of the offences alleged in a given case. Atleast one witness must support the cause of complainant.

13. But, as could be seen from the material on record, it is the complainant alone who is examined in the case on hand. The sworn statement means a person must



say that the allegations leveled in the complaint is true to his belief and information on oath. It should not be equated to the examination-in-chief. Law on the point and the procedure prescribed would also require that apart from the complainant, atleast one witness must be examined to assess the *prima facie* case against the accused for passing an order of issuance of summons.

14. In the case on hand, admittedly except the complainant, no other person is examined. The learned Magistrate has thus totally erred in not following the appropriate procedure and taking cognizance of the alleged offences against the petitioners herein.

15. As rightly contended by the learned counsels representing the petitioners, the learned Magistrate has also taken cognizance for the offence under Section 149 of IPC, though no such allegation is forthcoming in the complaint itself. The entire sworn statement in the form of examination-in-chief does not also depict that the



petitioners had shared the common object of defaming the complainant so as to invoke Section 149 of IPC.

16. Thus, this Court finds that there is sufficient force in the arguments canvassed on behalf of the petitioners herein that order taking cognizance and issuance of summons is mechanical in nature.

17. Further, what has been published either in the electronic media or in print media by the petitioners is the conversation that took place in the sting operation for which a case has already been lodged by the complainant before High Grounds Police, Bengaluru for offences punishable under Section 417 and several other offences of IPC.

18. What prevented the complainant to invoke Sections 499 and 500 of IPC in the same complaint is also a question that has not been looked into by the learned Magistrate while passing the order of issuing summons.



19. These aspects of the matter on cumulative consideration would result in irresistible conclusion that the order issuing summons suffers from legal infirmity and the procedural lapses and therefore, it needs to be quashed.

20. Learned counsels representing the petitioners however also contended that if the Court is of the opinion that continuation of the proceedings is nothing but abuse of process of law, mere quashing the order issuing summons would not serve the ends of justice and the whole complaint/proceedings needs to be quashed.

21. Such a contention on behalf of the petitioners cannot be countenanced in law for the simple reason that if an order is challenged before the Court which is *per se* illegal, this Court is not expected to decide anything on merits of the matter, as the same may prejudice the case of the parties when the matter is remitted for fresh consideration before the competent Court.



22. Accordingly, reserving the right for the petitioners to challenge the adverse orders, if any, that would be passed against them on post remand of the matter, the following order is passed:

ORDER

- i) The criminal petitions are allowed.
- ii) The order dated 19.10.2019 passed by V-Additional JMFC, Kalaburagi, in C.C.No.5957/2019 is quashed.
- iii) The matters are remitted to the trial Court for fresh consideration strictly in accordance with law.

It is made clear that the observations made in this order is only for the purpose of disposal of the present petitions and this Court has not expressed any opinion on the merits of the case of either of the parties.

Ordered accordingly.

**Sd/-
JUDGE**