



CNR: KAHC010462632023

NC: 2026:KHC:42062
CRL.P No. 8071 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 8071 OF 2023

BETWEEN:

RAHIM KHAN,
S/O MOHAMMED KHAN,
AGED ABOUT 57 YEARS,
OCC:MEMBER OF KARNATAKA
LEGISLATIVE ASSEMBLY, (MLA),
R/O. 9-5-162, VIVEKANANDA COLONY,
BIDAR, DIST:, BIDAR-585401.
(ADDRESS AS PER AADHAR CARD)

...PETITIONER

(BY SRI. NAVEED AHMED, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH POLICE, BIDAR RURAL POLICE
STATION, BIDAR, DIST: BIDAR-585401.
REP. BY ADDL. SPP,
HIGH COURT OF KARNATAKA
KALABURAGI BENCH-585107.

2. VEERESH,
S/O MALLIKARJUN HUGAR,
AGED ABOUT 34 YEARS,
OCC:ENGINEER,
R/A KRIDL, BIDAR, DIST: BIDAR-585401.

...RESPONDENTS

(BY SRI. SURYA MUKHUNDARAJ, ADDL. SPP FOR R1)





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THIS CRL.P IS FILED U/S.482 (FILED U/S.528 BNSS) CR.P.C PRAYING TO QUASH THE REGISTRATION OF FIR IN CRIME NO. 40/2023 DATED 05.05.2023 REGISTERED BY 1ST RESPONDENT POLICE/BIDAR RURAL POLICE STATION, FOR THE OFFENCES P/U/S 143, 147, 290 R/W 149 OF IPC AND SEC. 109 OF K.P. ACT, 1963 AS PER FIR AND ITS FURTHER INVESTIGATION, PENDING ON THE FILE OF ADDL. JMFC II COURT BIDAR, DISTRICT BIDAR, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

The petitioner is before this Court seeking the following prayers:

"A) Quash the registration of FIR in Crime No.40/2023 dated 05.05.2023 registered by 1st respondent Police/Bidar Rural Police Station, for the offences P/U/S 143, 147, 290 R/w 149 of IPC and Sec. 109 of K.P. Act, 1963 as per FIR and its further investigation, pending on the file of Addl. JMFC II Court Bidar, District Bidar, in the interest of justice.

B) Pass any appropriate order or directions as deemed fit by this Hon'ble Court Under the facts and Circumstance of the case, in the interest of justice and equity."

2. Heard Sri.Naveed Ahmed, learned counsel appearing for the petitioner, Sri.Surya Mukhundaraj,

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learned Addl. SPP appearing for respondent No.1, and have perused the material on record.

3. The petitioner is drawn as accused, the respondent No.2 is the complainant who was the flying squad during the elections held for the Karnataka Legislative Assembly. The petitioner gets elected as an MLA in the year 2023. On a particular day, i.e., on 05.05.2023, the respondent No.2 is said to have seen the petitioner continuing with the publicity including usage of loudspeaker up to 10.02 p.m., while the prohibition of usage of loudspeaker was at 10 p.m. Therefore, the difference was two minutes in continuing the usage of loudspeaker. This becomes a crime in Crime No.40/2023 for offences punishable under Sections 143, 147, 290 read with Section 149 of IPC and Section 109 of Karnataka Police Act, 1963. The registration of the crime drives the petitioner to this Court in the subject petition.

4. Learned counsel Sri.Naveed Ahmed, appearing for the petitioner submits that in the petitioner's watch, it



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was 10 p.m. If it is 10.02 p.m. in the watch of flying squad, that cannot become an offence, as there is nothing like a standard clock to be looked into for the particular offence of this kind, where the allegation is the usage of a loudspeaker goes beyond the time limit by two minutes i.e., 120 seconds.

5. *Per contra*, learned Additional SPP appearing for the respondent-State would vehemently contend that it is seriously disputed question of fact as to whether the petitioner continued to use the loudspeaker beyond 10 p.m. and up to what point and this Court cannot quash the proceedings on the said score.

6. The afore-narrated facts are not in dispute. They lie in a narrow compass. The entire issue gets triggered from a complaint on 05.05.2023. The complaint reads as follows:

“ಇವರಿಗೆ,
ಮಾನ್ಯ ಪೊಲೀಸ ನಿರೀಕ್ಷಕರು,

ದಿನಾಂಕ:05/05/2023



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ಬೀದರ ಗ್ರಾಮೀಣ ರಾಣಿ.

ಮಾನ್ಯರೆ

ವಿಷಯ:- ಹಮೀಲಾಪೂರ ಗ್ರಾಮದ ಚರ್ಚ ಹತ್ತಿರ ಗಾದಗಿ ರಸ್ತೆಯ ಮೇಲೆ
ಬೀದರ ಉತ್ತರ ವಿಧಾನ ಸಭಾ ಮತ ಕ್ಷೇತ್ರ -50 ರ ಕಾಂಗ್ರೆಸ್ ಪಕ್ಷದ
ಅಭ್ಯರ್ಥಿಯಾದ ರಹೀಮಖಾನ ರವರು ತಮ್ಮ ಇತರೆ ಹಲವಾರು
ಜನರೊಂದಿಗೆ ಅನಧಿಕೃತವಾಗಿ ಧ್ವನಿ ವರ್ಧಕ ಬಳಸಿ ಪ್ರಚಾರ ಮಾಡಿದ
ಬಗ್ಗೆ ದೂರು

• * * * *

ನಾನು ವಿರೇಶ ತಂದೆ ಮಲ್ಲಿಕಾರ್ಜುನ ಹುಗಾರ ವಯ-34 ವರ್ಷ ಕೆ.ಆರ್.ಐ.ಡಿ.ಎಲ್
ಬೀದರ ಇದ್ದು ನಾನು ಬೀದರ ಕೆ.ಆರ್.ಐ.ಡಿ.ಎಲ್ ಇಲಾಖೆಯಲ್ಲಿ ಸಹಾಯಕ ಇಂಜಿನಿಯರ
ಅಂತ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. 2023 ನೇ ಕರ್ನಾಟಕ ವಿಧಾನ ಸಭಾ
ಚುನಾವಣೆಯ ಪ್ರಯುಕ್ತ ನನ್ನ ಬೀದರ ಉತ್ತರ ವಿಧಾನ ಸಭಾ ಮತ ಕ್ಷೇತ್ರ -50 ರ
ಗ್ರಾಮೀಣ ವ್ಯಾಪ್ತಿಯ ಪ್ಲಾಯಿಂಗ್ ಸ್ಟಾಡ್ ಅಧಿಕಾರಿ ಅಂತ ನೇಮಕ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ.

ಇಂದು ದಿನಾಂಕ 05/05/2023 ರಂದು ನಾನು ಮತ್ತು ನನ್ನ ಜೊತೆಯಲ್ಲಿ
ಕ್ಯಾಮರಾಮ್ಯಾನ ಮಕ್ಕೂದ ಮತ್ತು ಪೊಲೀಸ ಸಿಬ್ಬಂದಿಯಾದ ಸಿಪಿಸಿ 1456
ವಿಜಯಕುಮಾರ ಮಾರ್ಕೆರ ರಾಣಿ ರವರು ಚುನಾವಣೆ ಕರ್ತವ್ಯದ ಮೇಲೆ
ಹಮೀಲಾಪೂರದಲ್ಲಿ ಇದ್ದಾಗ ಹಮೀಲಾಪೂರ ಗ್ರಾಮದ ಚರ್ಚ ಹತ್ತಿರ ಗಾದಗಿ ರಸ್ತೆಯ
ಮೇಲೆ ಬೀದರ ಉತ್ತರ ವಿಧಾನ ಸಭಾ ಮತ ಕ್ಷೇತ್ರ -50 ರ ಕಾಂಗ್ರೆಸ್ ಪಕ್ಷದ
ಅಭ್ಯರ್ಥಿಯಾದ ರಹೀಮಖಾನ ರವರು ತಮ್ಮ ಇತರೆ ಹಲವಾರು ಜನರೊಂದಿಗೆ
ಅಕ್ರಮಕೂಟ ರಚಿಸಿಕೊಂಡು ಚುನಾವಣಾ ಪ್ರಚಾರಕ್ಕೆ ಯಾವುದೇ ಅನುಮತಿಯನ್ನು
ಪಡೆಯದೇ ಇಂದು ರಾತ್ರಿ 10.02 ಗಂಟೆಯ ವರೆಗೆ ಚುನಾವಣೆಯ ಪ್ರಚಾರದ ನಿಗದಿತ
ಸಮಯ ಮುಗಿದರೂ ಚುನಾವಣೆ ಪ್ರಚಾರದಲ್ಲಿ ತೋಡಗಿರುತ್ತಾರೆ. ಮತ್ತು ಚುನಾವಣಾ
ಪ್ರಚಾರ ಸಮಯದಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ಅಧಿಕಾರಿಯಿಂದ ಧ್ವನಿ ವರ್ಧಕದ ಬಳಕೆಗಾಗಿ
ಅನುಮತಿಯನ್ನು ಪಡೆಯುವುದು ಕಡ್ಡಾಯವಾಗಿರುತ್ತದೆ ಆದರೆ ಅವರು ಯಾವುದೇ
ಅನುಮತಿಯನ್ನು ಪಡೆಯದೇ ಧ್ವನಿ ವರ್ಧಕವನ್ನು ಬಳಸಿ ಪ್ರಚಾರ ಮಾಡುತ್ತಿದ್ದರು. ಮತ್ತು
ಅವರ ಬಳಕೆ ಮಾಡಿರುವ ಧ್ವನಿ ವರ್ಧಕದಿಂದ ಸಾರ್ವಜನಿಕರಿಗೆ ಶಾಂತತೆಗೆ ಭಂಗ ಉಂಟು
ಮಾಡಿ ಮತ್ತು ಸಾರ್ವಜನಿಕರಲ್ಲಿ ಗೊಂದಲ ಸೃಷ್ಟಿಸಿ ಉಪದ್ರವ ಮಾಡುತ್ತಿದ್ದರು. ಇದರ
ಜೊತೆಗೆ ಘಟನೆ ಕಾಲಕ್ಕೆ ಮಾಡಿದ ವಿಡಿಯೋದ ಸಿಡಿ ಲಗತ್ತ ಮಾಡಲಾಗಿದೆ ಕಾರಣ
ಮುಂದಿನ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ವಿನಂತಿ ಇದೆ."



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7. The fulcrum of the complaint is two minutes beyond the time limit prescribed for usage of the loudspeaker during the time of elections. Two minutes in what, which is the standard clock that is seen, is not even indicated. According to the flying squad, it is two minutes. According to the petitioner, it was only 10 p.m. For two minutes, a crime is registered on this disputed question of fact. If it were to be beyond 10, 15 or 20 minutes, then there would have been some semblance of allegation. 120 seconds in which clock, is not indicated. Therefore, there cannot be an offence of the kind that is projected by the flying squad. It becomes apposite to refer to the judgment of the Apex Court in the case of **STATE OF HARYANA vs BHAJAN LAL**, reported in **1992 Supp (1) SCC 335**, wherein, at para 102 it is held as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to

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secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



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(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In the light of the judgment of the Apex Court, even if the allegation is considered to be true, it would not make out an offence.

8. For the aforesaid reasons, the following:

ORDER

[I] Criminal Petition is allowed.

[II] Proceedings in Crime No.40/2023 pending before the Addl. JMFC II Court, Bidar District, Bidar, *qua* the petitioner stands quashed.

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