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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER , 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 12886 OF 2026

BETWEEN:

SRI. BASANAGOUDA RAMANAGOUDA PATIL YATNAL,
S/O RAMANAGOUDA PATIL YATNAL,
AGED ABOUT 62 YEARS,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
VIJAYAPURA CITY, OCC AGRICULTURE,
R/AT FARM HOUSE, SINDAGI ROAD,
AINAPURA TALUKU, VIJAYAPURA - 586104.

...PETITIONER

(BY SRI DALWAI VENKATESH,ADVOCATE)

AND:

SRI. SHIVANANDA S PATIL,
S/O. SIDRAMAPPA PATIL,
AGED ABOUT 63 YEARS,
PRESENTLY R/AT NEAR JAMKHANDI CROSS,
OPPOSITE TO PETROL PUMP, JAMKHANDI ROAD,
VIJAYAPURA-586101.

...RESPONDENT

(BY SRI RAVI B NAIK, SENIOR COUNSEL FOR
SRI/SMT VIJETHA R NAIK,ADVOCATE)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO a) ALLOW THE PRESENT CRL.P BY EXERCISING THE INHERENT POWERS OF THIS HONBLE COURT U/S 528 OF BNSS, 2023.b) SET ASIDE THE ORDER DTD 27.11.2025 PASSED BY THE LEARNED XLII ACJM, BENGALURU IN PCR.NO.9136/2024, PRODUCED HEREIN AS ANNEXURE-D, WHEREBY COGNIZANCE WAS TAKEN AGAINST THE PETITIONER FOR THE OFFENCE P/U/S 500 OF IPC, 1860, CORRESPONDING TO SEC.356(2) OF BNS, 2023 AND SUMMONS WAS ORDERED TO BE ISSUED AND ETC.

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THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06TH NOVEMBER, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

The short question that arises in this petition is,

At the stage of taking cognizance and issuing process for offences under Sections 499 and 500 of the Indian Penal Code, whether Explanation-4 to Section 499 requires the complainant to examine a witness who states that, in that person's own estimation, the complainant's reputation has been lowered; or would it suffice if the statement of a witness other than the complainant, or other materials indicate that the imputation has lowered the complainant's reputation in the estimation of others?

1. The petitioner/accused is assailing the order dated 27.11.2025 taking cognizance of an offence under Section 356(2) of Bharatiya Nyaya Sanhita (for short 'BNS') in PCR No.9136/2024 by XLII Additional Chief Judicial Magistrate, Bengaluru.

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2. The petitioner has also assailed the order dated 18.08.2026 passed by the LXXXI Additional Sessions Judge, Bengaluru, in Criminal Revision Petition No.628/2025, whereby the order dated 27.11.2025 passed in PCR No.9136/2024 is affirmed.

3. The third prayer is to quash the entire proceedings in PCR No.9136/2024.

4. The respondent is the complainant.

5. Heard the learned counsel for the petitioner and the learned Senior Counsel for the respondent/complainant.

6. The complaint is filed on 15.07.2024 for an offence under Section 356 of the BNS in respect of defamatory statement allegedly made by the accused on 21.06.2024 in a public gathering and broadcast on 23.06.2024 on a YouTube channel.

7. Thus, it is evident that the alleged offence committed is under the Indian Penal Code, 1860 and the complaint is lodged under the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS').

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8. The learned counsel for the petitioner would submit that the Trial Court could not have taken cognizance based on the statement of the complainant and the two witnesses as the requirements of Explanation-4 of Section 499 of IPC or Section 356 of BNS are not met.

9. Drawing the Court’s attention to the sworn statements of the complainant and his two witnesses, the learned counsel for the petitioner would submit that the complainant has stated that his reputation is lowered in the estimation of others because of the imputation. The two witnesses examined on his behalf have also stated that the complainant's reputation is lowered; however, at the same time the witnesses have also stated that the allegations are false.

10. The learned counsel for the petitioner would urge that unless the person, other than the complainant, in whose estimation the complainant's reputation is lowered makes a statement to that effect before the Court, the requirement of Explanation-4 to Section 499 of IPC or Section 356(1) of the BNS is not fulfilled and cognizance for the said offence cannot be taken.

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11. Learned Senior Counsel appearing for the respondent would submit that the contents of the complaint disclose the statements made by the accused. The accused has not disputed the statement made. The statements made are per se defamatory. The statements have been widely circulated on social media.

12. In his sworn statement the complainant has stated that because of the imputation made by the accused, the complainant's reputation is lowered in the estimation of others. The complainant has cited 3 witnesses. At this stage, 2 witnesses have been examined. Those two witnesses have stated that the complainant's reputation has gone down in the *estimation of others* because of the defamatory statements made by the accused.

13. Learned Senior Counsel would urge that as the statement is per se defamatory, at the stage of taking cognizance, the Magistrate need not insist on a statement of a third person to say that the complainant's reputation has been lowered in that person's estimation.

14. The Court has considered the contentions raised and perused the records.

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15. The impugned order taking cognizance for the offence runs into 17 pages and operative portion of the order reads as under:-

> *"Acting under Section 223 of the BNSS 2023, Cognizance of the offence punishable under Section 500 of Indian Penal Code, 1860 (356(2) of BNS 2023) is taken as against the accused.*
>
> *Office to Register this case in Register-III as C.C. and issue summons to the Accused returnable by: 12.12.2025."*

16. While passing the said order, the Court has referred to the contents of the complaint and also taken note of enactment of Bharatiya Nyaya Sanhita, 2023 and Bharatiya Nagarik Suraksha Sanhita, 2023 and the repeal of the Indian Penal Code and the Criminal Procedure Code.

17. The Trial Court has referred to the transcript of the pen drive and the video clippings and also referred to the statement of the 2 witnesses.

18. The Trial Court has also referred to the judgment of the Apex Court in ***Subramanian Swamy Vs Union Of India***[1], ***Balraj Khanna And Others Vs Moti Ram***[2] ***Chaman Lal Vs***

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[1] ***(2016) 7 SCC 221***

[2] ***(1971 (3) SCC 399),***

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State Of Punjab[3] ***Arjun Panditrao Khotkar Vs Kailash Kushnarao Gorntyal***[4]**,** to take a view that prima facie case is made out to take a cognizance and thereafter taking cognizance.

19. Said order was called in question before the Jurisdictional Sessions Court and the Sessions Court in terms of its impugned order dated 18.08.2026 has dismissed the petition.

20. The Sessions Court has also taken note of the provision of law, the judgments of the Apex Court referred to in the order passed by the Trial Court.

21. The Sessions Court has also taken note of the statements in the documents produced before the Court and has confirmed the order passed by the Trial Court.

22. Learned Counsel for the petitioner laid much stress on the expression *in the estimation of others* in Explanation-4 to Section 499 IPC or Section 356 (1) of BNS. Relevant portion of Section 499 of IPC reads as under:-

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[3] (*1970) 1 SCC 590*

[4] (2020) 7 SCC 1

"499. Defamation.

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1 : It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2 : It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3 : An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 : No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations:

(a) A says "Z is an honest man; he never stole B's watch", intending to cause it to be believed the Z

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did steal B's watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

Exception 1.xxxx

(Emphasis supplied)

23. Perusal of Explanation-4 reveals that the imputation does not harm the reputation of a person if the imputation does not lower the reputation of the person in the *estimation of others*.

24. The petitioner's contention is the expression *"in the estimation of others"* would warrant the complainant to examine the person in whose estimation the complainant's reputation is lowered. However, a plain reading of the said Explanation does not necessarily mean that the expression "*in the estimation of others"* would only mean in the estimation of the "*witnesses examined before the Court"*.

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25. The expression *"in the estimation of others"* though refers to the persons in whose estimation the complainant's reputation must be lowered, does not, by itself, warrant that the particular person whose estimation is alleged to have been affected *must invariably be examined as a witness at the stage of taking cognizance*. The existence of the possible damage to the reputation, depending on the nature of the imputation and the material available, may be prima facie inferred from the circumstances surrounding the publication and the contents of the imputation itself.

26. However, in a given case to prove the contention that the complainant's reputation is lowered in the estimation of others, the complainant may be required to examine the person in whose estimation the complainant's reputation is lowered even at the stage of recording sworn statement.

27. If the witness who is examined before the Court, at the stage of sworn statement, states that he has good opinion of the complainant despite imputation, however, in the estimation of others, the complainant's reputation is lowered, then it may suggest two possibilities. Such is the evidence in this case.

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(a) The witness might have seen and heard "*another person*" making a statement that because of the imputation against the complainant, "a*nother person*" does not hold the complainant in as high esteem as he did before the imputation.

(b) The witness might have heard about the opinion of "another person", on the complainant's reputation being lowered because of the imputation, through some other person.

28. In scenario (a), the witness who personally heard another person express an adverse opinion about the complainant is competent to testify to the fact that such a statement was made. The witness is a direct witness to the making of that statement. However, the mere fact that another person expressed such an opinion does not necessarily establish that the imputation lowered the complainant's reputation. If the making or significance of that statement is disputed, further evidence may be necessary to establish the alleged reputational harm.

In scenario (b) referred to above, the statement would be hearsay.

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29. The above view can be explained with two illustrations.

(i) A tells B, that he heard C telling that D's reputation is lowered in C's estimation, because of E's imputation on D.

(ii) A tells B, that he heard C telling about D's reputation is lowered, in F's estimation, because of E's imputation on D.

30. In illustration (i), A has personally heard the statement made by C that in C's estimation D's reputation is lowered. Thus, A is a witness to C's statement. The fact that C made that statement about D's reputation is admissible evidence.

31. In illustration (ii) A has not personally heard F. A has heard about the statement allegedly made by F, from C. Thus the evidence of A about the alleged statement of F on D's reputation is hearsay.

32. In the present case the witnesses examined on behalf of the complainant have stated that they have good opinion about the complainant and the imputations are false,

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however, because of the imputation, the reputation of the complainant is lowered in the estimation of others.

33. It is true that the witnesses have not given specific details of the other/s in whose estimation the complainant's reputation is lowered. Nevertheless if the witness has heard somebody making a statement about another person's reputation being lowered, the fact that the person heard the statement would be admissible but may not be conclusive proof of the fact stated.

34. In such situation, if the imputations are per se defamatory and lower the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful, the Court can tentatively form an opinion that the person's reputation might have been lowered in the estimation of others, for the purpose of taking cognizance or issuing the process.

35. If the allegations or imputations are prima facie not defamatory then the Court at the time of taking cognizance

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may take a view that the materials are not sufficient to proceed further and may insist on better materials or evidence.

36. For the aforementioned reasons the expression ***"in the estimation of others"*** in Explanation-4 to Section 499 of IPC or 356(1) of BNS cannot be construed as having mandated, that in every case at the stage of taking cognizance and issuing the process, that a witness other than the complainant must be examined and said witness must state that in his own estimation the complainant's reputation is lowered.

37. If the complaint and the independent witness examined state that the complainant's reputation is lowered in the estimation of others because of the imputation, and if the imputation is of such a nature that the Court prima facie finds that it is inherently capable of lowering the moral or intellectual character of the complainant, or projects him as a person of bad character or as having engaged in conduct generally considered disgraceful, then the Court may without insisting on the statement of the witness, that in his own estimation, the complainant's reputation is lowered, can take cognizance and issue the process.

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38. On the other hand, where the imputation is not prima facie capable of lowering the complainant's reputation within the meaning of Explanation-4 of Section 499 of IPC or 356(1) of BNS, mere assertion that the reputation of the complainant has been lowered in the estimation of others may not be sufficient. In such circumstances, to satisfy himself that the essential ingredient of defamation is prima facie made out, the Magistrate may require further material or the statement of an independent witness who would say that in his own estimation the complainant's reputation is lowered.

39. At this juncture, it is necessary to refer to the judgment of the Apex Court in ***John Thomas vs Dr. K. Jagadeesan***[5]. Apex Court in the said case has held that in case the statement is per se defamatory, it would relieve the burden on the complainant that publication has lowered the complainant's reputation in the estimation of the right-thinking public. The Apex Court also held that the accused cannot seek discharge if the publication is not per se defamatory as the complainant can lead evidence at the trial.

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[5] *(2001) 6 SCC 30*

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40. The Court has noticed from the said judgment that it is not clear whether the witnesses are examined before the Court (at the time of recording sworn statement) to say that the complainant's reputation has been lowered in the estimation of the person who is examined as a witness.

41. The learned counsel for the petitioner relied on the judgment of the Apex Court in ***Jaideep Bose vs Bid and Hammer Auctioneers Private Limited***[6]. In the said case, the Apex Court set aside the order taking cognizance on the ground that the procedure contemplated under Section 202 of the Code is not followed as the accused were residing outside the jurisdiction of the Court taking cognizance and against some of the accused the order taking cognizance is set aside as there were no materials to take a view that some of the accused authored the publication. The Apex Court has also held that the complainant has failed to produce any evidence to show that the reputation is lowered in the estimation of others.

42. In the instant case the contention relating to Section 225 of BNSS is not raised as the Court which passed the order is a Special Designated Court. Moreover accused

[6] 2025 SCC OnLine 348

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being the member of the legislative assembly cannot take a plea that he resides outside the territorial jurisdiction of the Court in Bengaluru which issued the process. In addition the Trial Court has issued pre cognizance notice to the accused/petitioner and the petitioner/accused is heard.

43. That apart, the complainant has also examined witnesses who have said that the complainant's reputation is lowered in the estimation of the public.

44. The learned counsel for the petitioner heavily relied on the judgment of the Calcutta High Court in ***Aveek Sarkar and Another vs The State of West Bengal & Others.***[7]

45. In the said case, it appears that the FIR was registered pursuant to a publication and there is a contention that no private complaint is filed and the FIR was registered based on complaint by an Association represented by the Secretary. The Court held that such a complaint is not tenable for the offences under Section 499 of IPC and the Court also took a view that the publication was not defamatory in the said case.

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[7] (2014) 4 SCC 257

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46. Though the Court has held that there has to be an evidence of an independent witness to the effect that in the estimation of such independent witness the complainant's reputation is lowered, this Court is not persuaded to follow the said view for the reasons already recorded supra.

47. The Madras High Court in ***S. Ranganathan vs Radhakrishnan***[8] has held that before taking cognizance for an offence under Section 499 IPC there has to be an inquiry under Section 202 of Cr.P.C. The Court is of the view that in the case on hand apart from examination of the complainant, two witnesses have been examined. Thus, there is no procedural violation and the judgment in ***S. Ranganathan*** does not come to the aid of the petitioner.

48. In the backdrop of above discussion, the Court has to consider the statements made by the accused. The relevant portion of the statements **are as under:-**

> "ಅಲ್ಲಿ ಇರೋನೆ ಕಾಟಾಚಾರದ ಎಂಎಲ್ಎ ಇದಾನೆ. ಅವ ಲೂಟಿ ಮಾಡಲು ಹೋದ ಎಂ.ಎಲ್.ಎ ಅಲ್ಲಿ.

[8] 2023 SCC OnLine Mad 2732

ಅಲ್ಲಿ ಟೆಂಡರ್ ಆಗುತ್ತವೆ ಕೃಷ್ಣಾದಲ್ಲಿ ಭಯಂಕರ ದುಡ್ಡು ಹೊಡೆಯಬೇಕೆಂದು ಹೋದವ ಅಂತವರು ಎಲ್ಲಿ ಇರುತ್ತಾರೋ ಅಲ್ಲಿ ಧರ್ಮ ಕೆಲಸಗಳು ಆಗುವುದಿಲ್ಲ. ಅಲ್ಲಿ ಇಸ್ಲಾಂ ಬೆಳವಣಿಗೆ ಆಗುತ್ತೆ ಹೊರತು ಹಿಂದೂ ಧರ್ಮದ ಬೆಳವಣಿಗೆ ಆಗುವುದಿಲ್ಲ. ಅವನಿಗೆ ಅವರಪ್ಪನಿಗೆ ಹುಟ್ಟಿದ್ದೆ ಅಂದರೆ ಶಿವಾನಂದ ಅಚಡಾ ಇದಾನೆ ಅವನ ಅಡ್ಡ ಹೆಸರು ಪಾಟೀಲ್ ಅಲ್ಲ. ಇದನ್ನ ಮಾಧ್ಯಮದವರು ಹೇಳಿ ಅಚಡಾ ಅದು.

ನೀವು ನಿಮ್ಮ ಅಪ್ಪಾ ನೀವು ಕೂಡಿ ನಿಮ್ಮ ಅಡ್ಡಹೆಸರು ಚೇಂಜ್ ಮಾಡಿಕೊಂಡೊರು ಯಾಕಂದ್ರೆ ರಾಜಕೀಯ ಸಲುವಾಗಿ, ಪಾಟೀಲ್ ಅಂದರೆ ಏನೋ ಗೌರವ ಬರುತ್ತದೆ ಅಂತ ಅಂದ್ಕೋಂಡಾನೆ. ಅಚಡಾ & ಕಂಪನಿ ಮತ್ತು ಅಲ್ಲೊಬ್ಬ ಹುನಗುಂದದವ ಅದನಲ್ಲ ಅವನು ಅವರಪ್ಪನಿಗೆ ಹುಟ್ಟಿದ್ದಾನೆ **ಅಂದರೆ** ಒಂದು ವಾರಗಳೊಳಗೆ ಇಬ್ಬರು **ವಿಧಾನಸಭೆಯಲ್ಲಿ ರಾಜೀನಾಮೆ** ಕೊಡಲಿ. **ಸ್ಪೀಕರ್ ಕಡೆಯಿಂದ ಅಂಗೀಕೃತ ಆಗಲಿ.**

ನಾ ಎರಡು ಕಡೆ ನಿಲ್ಲಕ್ಕೆ ತಯಾರಿದ್ದಿನಿ, ನಿಮ್ಮ ಅಪ್ಪನಿಗೆ ಹುಟ್ಟಿದರೆ ಮುಂದಿನ ಶುಕ್ರವಾರದ ಒಳಗಾಗಿ, ನೀವು ಇಬ್ಬರು ಹೋಗಿ ಸ್ಪೀಕರ್ ಕೊಟ್ಟು ರಾಜೀನಾಮೆ ಕೊಟ್ಟು ಎರಡು ಸ್ಥಾನಗಳನ್ನು ತೆರವು ಮಾಡಿರಿ, ದಮ್ ಇದ್ದರೆ ನೀವು ಪಕ್ಷಾಂತರ ಬರ್ರೀ ನಾನು ಬರುತ್ತೇನೆ, ನಿಮ್ಮನ್ನು ಅಲ್ಲೇ ಮಣ್ಣುಕೊಟ್ಟು ಬರುತ್ತೀನಿ. ಪಾಕಿಸ್ತಾನಕ್ಕೆ ಹೋಗಿ ಮಣ್ಣುಕೊಟ್ಟು ಬತೀನಿ ನೀವೆಲ್ಲಾ ಪಾಕಿಸ್ತಾನ್ ಏಜೆಂಟ್ ನಿನ್ನೆ ನನ್ನ ವಿರುದ್ಧ ಏನು ಹೋರಾಟ ಮಾಡುತ್ತೀರಿ. ಒಬ್ಬನೇ ಅಲ್ಲಿ ಇರುವಂತಹ ತಾಯಿಗಂಡಸೂಳೆ ಮಗ ಭಾರತ್ ಮಾತಾಕಿ ಜೈ ಅಂದ. ಪಾಕಿಸ್ತಾನ್ ಮುರ್ದಾಬಾದ್ ಅಂದ ಅಲ್ಲೆಲ್ಲ ಕೂಡುವುದು ಎಲ್ಲಾ ಕೂಡುವುದು ಹಾಲಾಲ್ ಕೋರ್, ಹರಾಮ್‌ಕೋರ್.

ಅವಾ ಇಂಡೀ ಶಾಸಕ 4–5 ನೂರು ಟೆಂಪೋ ತಂದಾನ ಸಾಬರನ್ನ ಬಿಜಾಪುರಕ್ಕೆ ಇವರೆಲ್ಲರಿಗೂ ಮುಂದಿನ ಚುನಾವಣೆಯಲ್ಲಿ ಸರಿಯಾಗಿ ಬುದ್ದಿ ಕಲುಸ್ತೀವಿ ನೋಡ್ತಾಯಿರಿ, ನಾವು ಹಿಂದೂಗಳ ಒಂದು ಓಟನ್ನು ನೆನ್ನೆ ಏನು ಸ್ಟೇಜ್ ಮೇಲೆ ಕೂತಾರಲ್ಲ ಅವರಿಗೆ ಬಿಳಲಾರದಂಗೆ ಹಿಂದೂಗಳು ನಾವು ತಯಾರಾಗಿದ್ದೀವಿ. ನೀವು ಸಾಬರನ್ನು ಬೆನ್ನ ಹತ್ತಿರಲ್ಲ ಸಾಬರ್ ಬೆನ್ ಹತ್ತಿ ನೆನ್ನೆ ಅವರು ಬ್ಲಾಕ್‌ಮೇಲ್ ಮಾಡಿದರು ಸಾಬ್ರು. ನೀವು ಬರಲಿಲ್ಲ ಅಂದರೆ ಮುಂದಿನ ಸಾರಿ ನಿಮ್ಮನ್ನ ನೋಡ್ಕತೀವೆ ಅಂತ ನಾಳೆ ನಮ್ಮ ಹಿಂದು ಸನಾತನ ಧರ್ಮದ ಒಬ್ಬನೆ ಒಬ್ಬ ವ್ಯಕ್ತಿ ಈ ಜಿಲ್ಲೆಯಲ್ಲಿ ಏನಾದರು ಆದರೆ ನಾವು ಕೊಡುವಂತ ಕರೆಗೆ ನೀವು ಬರಲಿಲ್ಲ ಅಂದರೆ ನೀವು ನೇರವಾಗಿ ಸಾಬರಿಗೆ ಹುಟ್ಟಿದ್ದೀರಿ ಅಂತ ನಾವು ತಿಳುಕೊಳ್ತೀವಿ.

ನಿಮ್ಮಿಬ್ಬರಿಗೆ ದಮ್ ತಾಕತ್, ನಿಮ್ಮಪ್ಪನಿಗೆ ಹುಟ್ಟಿದರೆ ಒಂದು ವಾರದಾಗೆ ರಾಜೀನಾಮೆ ಕೊಡಿ. ಈ ಯತ್ನಾಳ್ ಪಕ್ಷೇತರವಾಗಿ ನಿಂತು ಭಗವಾಜಂಡಾ ತಗೊಂಡು ಹಾರಿಸಿಬಿಡೀನಿ. .....

ಇನ್ನ ನಾವು ನಮ್ಮ ದೇಶದಲ್ಲಿ ಇದು ನಡೆಯದೆ ಅದು ಪಾಕಿಸ್ತಾನ ಯುದ್ದ ಪ್ರಾರಂಭ ಆದರೆ ಇಲ್ಲಿರುವಂತ ಅರಾಮ್‌ಕೋರ್ ಅಂತ ಶಿವಾನಂದ ಪಾಟೀಲ್, ಕಾಷಪ್ಪನ್ನಂತ ಯಶವಂತರಾಯಗೌಡರು ತಾಯಿಗಂಡರು ಇದಾರಲ್ಲ ಇವರು ಎಲ್ಲೆಲ್ಲಿ ಇರ್ತಾರ ಇಂತರ ಅರಾಮ್‌ಕೋರ್ ಇದ್ದೇ ಇರ್ತಾರ. ಇವರೆಲ್ಲರ ಅಪ್ಪನಿಗುಟ್ಟಿದರೆ ಚುನಾವಣೆಯಲ್ಲಿ ನನಗೆ ಚಾಲೆಂಜ್ ಕೇಳಿದ್ದಾರಲ್ಲ ನಾಯೇನ್ ಅಪ್ಪ ಅಂತನ ಕೊಟ್ಟಿದ್ದರಲ್ಲವರು ಈ ರಾಜೀನಾಮೆ ಕೊಡಬೇಕಲ್ಲ. .....

ಈ ಅಚಡಾಕ್ಕೆ ಯಾಕ ಹಾಕ್ತಾರಿ ಅವ ಯಾವ ಮಗ ಹುನಗುಂದವ ಬರ್ತೀನಿ ಅಂದವಾ ಬಾರಪ್ಪ ಮಗನೇ ನಿಮ್ಮಪ್ಪನಿಗೆ ಹುಟ್ಟಿದರೆ ಬಾ, ಮತ್ತೊಬ್ಬರ ಅಪ್ಪನ್ನ ಕೇಳ್ತಿಯಲ್ಲಾ ಮಗನೇ ನಿನ್ನ ಮಾರಿ ನೋಡಿದರೆ ಗುರ್ತು ಆಕ್ತೈತೆ ಯಾರಿಗೆ ಹುಟ್ಟಿ ಅನ್ನೋದು. ನಿನ್ನ ಬರೀ ಮಾರಿ ನೋಡಿದ್ರೆ ಗುರ್ತಾಕ್ತೈತೆ. ಪಂಚಮಸಾಲಿ ಸಮಾಜಕ್ಕೆ ಮೋಸ ಮಾಡಿದ್ದಿ, ನೀ ಎಲ್ಲೆಲ್ಲಿ ರೊಕ್ಕಾ ತಗೊಂಡ್ ಬನ್ನಿ. ಬೊಮ್ಮಾಯಿ ಮನೇಲಿ ಎಷ್ಟು ತಗೊಂಡು ಬಂದಿ, ಬೊಮ್ಮಾಯಿ ಮುಖ್ಯಮಂತ್ರಿ ಇದ್ದಾಗ ಪಾದಯಾತ್ರೆಗೆ ಎಷ್ಟು ರೊಕ್ಕ ತಂದು ತಿಂದೀನೀನು, ಮತ್ತೊಬ್ಬರ ಸಂಘ ಸಂಸ್ಥೆಗಳ ಬಗ್ಗೆ ಮಾತೋಡೊ ನೈತಿಕತೆ ನಿನಗೆ ಇಲ್ಲ. ನೀವೊಬ್ಬ ಮಹಾ ಭ್ರಷ್ಟಾ ಲೋಪರ್ ಇದೀ. ನನ್ನ ಬಗ್ಗೆ ಇನ್ಮೇಲೆ ಮಾತಾಡಿದ್ರಿ ಅದೇ ಭಾಷೆ, ಏಕಾಂದ್ರ ಬಿಜಾಪುರದಾಗ ನಮ್ಮ ಭಾಷೆ ಬಹಳ ಸುಪೀರಿಯರ್ ಐತೀ. .....

ಇನ್ನು ಒಂದು ವಾರದ ನಂತರ ನಾನು ಡಿಕ್ಲೈರ್ ಮಾಡ್ತೀನಿ ಇವರಿಬ್ಬರು ಅಪ್ಪನಿಗೆ ಹುಟ್ಟಿಲ್ಲ, ಆಯಿತಾ ನೀ ಪಂತಾವನಿಗೆ .....

TRANSCRIPTION OF DOCUMENT NO.4 VIDEO01.MP4 FROM 3:25 MINS TO 4:30 MINS

ನೇರವಾಗಿ ಮುಖ್ಯಮಂತ್ರಿಗಳೇ ಜವಾಬ್ದಾರಿ ಆಗ್ತಾರೆ. ಮುಖ್ಯಮಂತ್ರಿಗಳು ಅದನ ತನಿಖೆ ಮಾಡಿಸಬೇಕು. ಅದನ ಸಿಬಿಐಗೆ ಕೊಡಬೇಕು. ಸರ್ಕಾರದ ಹದಿಮೂರು ಎಕರೆ ಅಂದ್ರ ಸಾವಿರಾರು ಕೋಟಿ, ಒಂದು ಎಕರೆ ಅಂದ್ರೆ ಆ ಜಾಗ ಇದ್ದಲ್ಲಿ ಸುಮಾರು ಐದುನೂರು ಕೋಟಿ ರೂಪಾಯಿದು ಒಂದು ಎಕರೆ ಇದೆ. ಅದಕ ಬಂಧುಗಳೇ, ಎಲ್ಲಾರು ನಮ ಸಕ್ರಿ ಮಂತ್ರಿ ಬಾಳ್ ದೊಡ್‌ದೊಡ್ ಮಾತ್ ಹೇಳ್ತಿದ್ದ ಅವ್ನು ಒಂದು ದೊಡ್ಡ ಹಗರಣ ಮಾಡ್ಯಾನ, ಬರ್ತೇತಿ ಅವಂದು, ಅವ್ನು ಬಾಗಲ್ಕೋಟದಾಗ ಹೋಗಿ.. ಏನೋ ರಾಜಯೋಗ ಯಾವ್ದೋ ಯೋಗ ಅತ್ಹೇಳಿ ಹೊಡ್ಡೆ ಹೊಡ್ಡ.. ಗಜಕೇಸರಿ, ಅವ್ರಿಗೆ ಗಜಕೇಸರಿ ಆಯ್ತು.. ಯಾಕಂದ್ರ ಹೆಂಗಂದ್ರ ನೂರು ನೂರೈವತ್ತೂ ಕೋಟಿ ರೂಪಾಯಿ ಎಲಾ ಸಕ್ರಿ ಕಾರ್ಖಾನ್ಯಾಗ ರೊಕ್ಕ ಹೊಡ್ಡ. ಎಪಿಎಂಸಿ ವ್ಯಾಪಾರಸ್ಥರ ಕಡೆ ನಮ್ ಬಿಜಾಪುರ ಎಪಿಎಂಸಿ ವ್ಯಾಪಾರಸ್ಥರ ಕಡೆಯಿಂದ ರೊಕ್ಕ ಹೊಡೆದಾನ. ಅದ ಅಂಜತಾರೋ ವ್ಯಾಪರಸ್ಥರ ಹೇಳಾಕ. ಏನ್ ನಾವೇ ಹೋಗಿ ಕೊಟ್ಟ್ ಬಂದ್ವಿ ರಿ ಅವ್ನಿಗಿ ಅತೇಳಿ. ಎಲ್ಲಾ ಕಡೆ ಎಪಿಎಂಸಿ ಕಲೆಕ್ಷನ್ನೇ ಕಲೆಕ್ಷನ್ ಮಾಸ್ಟರ್ ಹೆಚ್ಚಾಗೇ ಹೆಚ್ಚು ಕಾಂಗ್ರೆಸ್‌ನ ಮಂತ್ರಿಗಳೇನ ಅದಾರಲಾ ಅವ್ರೆಲ್ಲಾ ಅಕ್ರಮ ವ್ಯವಹಾರನಾಗ ತೊಡಗಿಬಿಟ್ಟಾರ ನೋಡ್ರೀ ಇವತ್ತು ವಾಲ್ಮೀಕಿ ಏನ್ ನಿಗಮದ್ದು ಒನ್ನೂರ ಎಂಭತೇಳು ಕೋಟಿ ರೂಪಾಯ್ ಎಸ್ಟಿ ಜನಾಂಗದ ಅಭಿವೃದ್ಧಿಗಾಗಿ ಎಸ್ಟಿ ಜನಾಂಗದ ಅಭಿವೃದ್ಧಿಗಾಗಿ ಇರುವಂತಹ ನಮ್ ಜಿಲ್ಲಾ. "

49. On perusal of the statement, there is no difficulty in taking a prima facie view that the statements cast serious aspersions on the complainant's integrity and character and are inherently capable of lowering the reputation of the complainant. Of course even if the allegations are true, whether the case falls under an exception can be considered by the Court. On the basis of the said publication and the statements of two witnesses, the Court has taken cognizance of the offence

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under Section 499 of IPC. Said impugned order cannot be said to be erroneous. Because at this stage the Court need not consider whether the evidence is sufficient to convict the accused.

50. Whether the public or any person believed the imputation to be true or whether the complainant's reputation was in fact lowered in the estimation of others, are the questions to be considered at the time of trial.

51. At this juncture, the Court does not find any error in the order passed by the Trial Court or the Revisional Court in taking a view that a case is made out to proceed further for the offence under Section 499 of IPC.

52. Though the learned counsel for the petitioners relied on the judgment of the Apex Court in ***Manoj Kumar Tiwari Vs Manish Sisodia & Ors.***[9]***,*** and the judgments of the co-ordinate bench of this Court in ***Jayappa Vs Shamegowda***[10], ***S.P.Bobati & Ors. Vs Mahadev Virupaxappa Latti***[11] and ***Sri M Krishna Reddy Vs N R***

[9] 2002 Livelaw (SC) 853

[10] 1983 SCC On Line Kar.6

[11] 2004 SCC On Line Kar.511

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Ramesh[12] to urge that the petition has to be allowed following the ratio laid down in the said cases, the Court is of the view that in the aforementioned cases the accused were either acquitted or the complaint is quashed based on the nature of the imputations made against the complainant in those cases. The imputations in the present case against the complainant are *way different* from the cases referred to above. It is not necessary to refer to the imputations made in those cases. Hence, the said judgments have no application to the case on hand.

CONCLUSIONS.

(i) *At the time of taking cognizance for an offence and issuing process, in a case alleging defamation, Explanation-4 to Section 499 of IPC, or Section 356(1) of BNS, does not necessarily mandate the complainant to examine a witness other than the complainant to make a statement that the complainant's reputation is lowered in the estimation of* ***"said witness".***

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(ii) Whether such statement of a witness other than the complainant at the time of taking cognizance is required or not, is dependent on nature of imputation and other materials and attendant circumstances.

(iii) If the imputation is of such a nature that the Court prima facie finds that it is inherently capable of lowering the moral or intellectual character of the complainant, or projects him as a person of bad character or as having engaged in conduct generally considered disgraceful, then the Court may without insisting on a statement from a witness that, in his own estimation, the complainant's reputation is lowered, may take cognizance and issue the process based on the statements of the complainant and the witness who state that the complainant's reputation is lowered ***in the estimation of others.***

(iv) Where the imputation is not prima facie capable of lowering the complainant's reputation within the meaning of Explanation-4 to Section 499 of IPC or Section 356(1) of BNS, a mere assertion by the

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complainant and his witness that the reputation of the complainant has been lowered in the estimation of others may not be sufficient. In such circumstances, the Magistrate to satisfy himself that the essential ingredient of defamation is prima facie made out, may require further material or the statement of a witness other than the complainant who would say that in his own estimation the complainant's reputation is lowered.

53. Hence, the following:

ORDER

(i) The petition is ***dismissed.***

(ii) The Observations made in this order are not the opinion on the merits of the complaint and defence of the accused.

(iii) All contentions on merits are kept open to be adjudicated by the Trial Court.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CHS/BRN