

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT: HYDERABAD

CORAM:

* HON'BLE SRI JUSTICE K. LAKSHMAN

+ CRIMINAL PETITION No.5823 OF 2025

% Delivered on: 01-08-2025

Between:

Mr. A. Revanth Reddy

.. Petitioner

Vs.

\$ The State of Telangana, rep.by its
Public Prosecutor & another

.. Respondents

! For Petitioner

: Mr. T. Niranjan Reddy,
Learned Senior Counsel

^ For Respondent No.1

: Public Prosecutor

^ For Respondent No.2

: Mr. Devineni Vijay Kumar

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> Head Note

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? Cases Referred

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1. (2014) 9 SCC 1
2. (2006) 7 SCC 1
3. (2023) 15 SCC 401
4. (2023) 15 SCC 443
5. 1992 Supp (1) SCC 335
6. (1977) 2 SCC 699
7. (1998) 5 SCC 749
8. (2018) 1 SSC 615
9. 2023 SCC OnLine All 14
10. 2018 SCC OnLine Guj 209
11. 2019 SCC OnLine HP 721
12. 2024 SCC OnLine Del 719
13. (1972) 2 SCC 680
14. MANU/TL/0179/2024

15. 2024 SCC OnLine Del 6005
16. (2016) 7 SCC 221
17. (1981) 3 SCC 208
18. 1968 SCC OnLine Del 117
19. (2012) 5 SCC 424
20. (2013) 14 SCC 44
21. (1976) 3 SCC 736
22. 2022 SCC OnLine Mad 9151
23. (2001) 6 SCC 30
24. 1977 SCC OnLine Bom 146
25. 1983 SCC OnLine Mad 486
26. 2008 SCC OnLine Kar 625
27. 2024 SCC OnLine TS 13
28. 2021 SCC OnLine Mad 5317
29. (2012) 12 SCC 72

HON'BLE SRI JUSTICE K. LAKSHMAN**CRIMINAL PETITION No.5823 OF 2025****ORDER**

1. The present Criminal Petition is filed under Section 528 of the Bharatiya Nagrik Suraksha Sanhita (hereinafter 'BNSS') to quash the proceedings in C.C. No. 312 of 2024 by setting aside the order dated 23.08.2024 in the said C.C. passed by Principal Special Judicial First-Class Magistrate for Excise Cases at Hyderabad (hereinafter 'Trial Court').
2. Heard Mr. T. Niranjan Reddy, learned Senior Counsel representing Mr. T. Bala Mohan Reddy, learned Counsel for the Petitioner - Accused, Mr. Devineni Vijay Kumar, learned Senior Counsel representing Ms. Hamsa Devineni, learned Counsel for Respondent No.2 - Complainant and the learned Public Prosecutor.

3. FACTUAL BACKGROUND

- 3.1. The Petitioner herein is the Chief Minister for the State of Telangana and is a member of the Indian National Congress, a national political party. Respondent No. 2 (hereinafter 'the Complainant') is the Bharatiya Janata Party (Telangana) represented by its General Secretary Mr. Kasam Venkateshwarlu. It claims to be the State Unit of the Bharatiya Janata Party, also a national political party.

3.2. Respondent No. 2 had filed a complaint dated 10.05.2024 under Sections 199 and 200 of the Code of Criminal Procedure (hereinafter 'CrPC') against the Petitioner alleging that the Petitioner delivered an 'illegal, false, defamatory and provocative' speech against Respondent No.2 on 04.05.2024.

3.3. The following excerpts of the speech, according to the Complainant, are defamatory and promotes enmity:

- **'BJP government will abolish all SC, ST and BC reservations'**
- **'I have been saying, if we give 400 seats to BJP, they will change the constitution, they will abolish reservations, that's why they are asking for 400 seats'**
- **'there is a conspiracy to cancel SC, ST, BC reservations for Dalits, tribals and weaker sections'**
- **'BJP is planning to change the constitution, your constitution is going to be abolished'**
- **'the reservations you are being given are going to be cancelled'**
- **'if you vote for BJP today, our reservations are going to be abolished'**
- **'BJP national general secretary, a person called Dushyant Kumar Guatham said in an interview yesterday that as soon as BJP forms government,**

we will change the preamble in the constitution, we will change the constitution’

- **‘what I have been saying from so many days, the allegations I made, your BJP national general secretary, Dushyant Kumar Guatham, has said clearly and in his official capacity, that as soon as BJP forms government, we will change the constitution’**
- **‘I am asking the highly learned Kishan Reddy, your general secretary is saying that we will change the constitution right...’**
- **‘now you decide if you should be beaten for telling lies or your general secretary should be beaten for saying we will change the constitution’**

3.4. Relying on the above alleged speech, the Complainant contends that, the Petitioner connived with the Telangana Congress Party ‘to develop a fake and dubious political narrative’ that the BJP will end reservations. These remarks, according to the Complainant, are defamatory and promote enmity between communities. Further, it was alleged that, the Petitioner’s speech was watched and shared online by innumerable people. According to the complainant, the contents of the speech were widely reported in print, electronic, and social media. The alleged defamatory and divisive speech, according to the Complainant, lowered the reputation of the BJP as a political party. The complainant sought

registration of a criminal case against the petitioner for the offences punishable under Sections 120A, 124A, 153, 153A, 153B, 171C, 171G, 499, 505, and 511 of the Indian Penal Code ('hereinafter 'the IPC') and Section 125 of the Representation of Peoples Act, 1951 (hereinafter 'the RP Act, 1951').

- 3.5. Pursuant to the said complaint, the Complainant was examined through its State General Secretary, Mr. Kasam Venkateshwarlu on two dates viz., 05.07.2024 and 11.12.2024. It has also examined Mr. Akkaladevi Ajay Kumar on 05.07.2024 as a witness.
- 3.6. On consideration of the contents of the said complaint and statements of witnesses, *vide* docket order dated 21.08.2024 in C.C. No.312 of 2024, the learned Trial Court ordered notice to the Petitioner - Accused holding that a *prima facie* case was made out against the Petitioner for the offences under Section 499 of the IPC and Section 125 of the RP Act, 1951. The learned Trial Court also directed its office to register the case as C.C.
- 3.7. Challenging the impugned order dated 23.08.2024 and the entire criminal proceedings in C.C. No. 312 of 2024, the Petitioner has filed the present quash petition.

4. CONTENTIONS OF THE PETITIONER

- 4.1. The allegations in the complaint do not make out a *prima facie* case under Section 499 of the IPC and Section 125 of the RP Act, 1951.
- 4.2. Political speeches cannot be made a subject matter of defamation. A political party cannot claim to be entitled to reputation in terms of Section 499 of the IPC. In democracy, elections fundamentally involve parties seeking to lower the reputation of other parties. Therefore, bringing political speeches under the purview of criminal defamation would destroy democracy.
- 4.3. The alleged speech amounts to a routine activity of a political leader, i.e., to criticize the opposition political party. The same cannot be termed as defamation.
- 4.4. Any imputation during elections that the opposition party's coming to power will jeopardize voters' interests is part of a political speech. The same is protected under Articles 19 and 21 of the Constitution of India. Reliance is placed on **Manoj Narula v. Union of India**¹ and **Kuldip Nayar v. Union of India**².

¹. (2014) 9 SCC 1

². (2006) 7 SCC 1

- 4.5. The alleged defamatory speech against a political rival is not a factual statement with a determinable truth value. The same is a narrative to criticize the opposition. Therefore, such vague and general political speeches cannot be termed defamatory. Reliance is placed on **Manoj Kumar Tiwari v. Manish Sisodia**.³
- 4.6. The alleged defamatory speech is covered by first, second, third, sixth, eighth, ninth, and tenth exceptions to Section 499 of the IPC. Whether such exceptions cover the alleged defamatory statements can be considered in a quash petition. In this regard, the Petitioner relies on **Aroon Purie v. State of NCT of Delhi**.⁴
- 4.7. Admittedly, the Complainant has stated that multiple complaints have already been lodged in relation to the alleged speech. Given such multiple proceedings, the Trial Court ought not have taken cognizance.
- 4.8. None of the witnesses have stated as to how the alleged speech was defamatory and as to how the Complainant's reputation was lowered.
- 4.9. Ingredients of Section 125 of the RP Act, 1951 are lacking. The same only comes into play where enmity is promoted on the ground of 'religion, race, caste, community, or language'. The Complainant's main

³. (2023) 15 SCC 401

⁴. (2023) 15 SCC 443

allegation was that a fake political narrative was being created. The complaint does not establish any enmity or hatred caused.

4.10. The complaint is filed with a motive to harass, and with a political vendetta. The same constitutes abuse of process of law. Therefore, it deserves to be quashed. Reliance is placed on **State of Haryana v. Bhajan Lal**⁵, **State of Karnataka v. L. Muniswamy**⁶, and **Pepsi Foods Ltd. v. Special Judicial Magistrate**⁷.

4.11. The impugned order dated 23.08.2024 fails to record any reasons as to how a *prima facie* case is made out. No reasons were assigned except stating that on perusal of statements of PWs.1 and 2, a *prima facie* case was made out.

4.12. The complaint has been filed by Mr. Kasam Venkateshwarlu without any authorization from the Complainant. No such authorization or document has been filed to show that Mr. Kasam Venkateshwarlu could have represented the Complainant.

4.13. Respondent No.2 - Complainant i.e., Bharatiya Janatha Party (Telangana) is not an existing entity and there is no party by name Bharatiya Janatha

⁵. 1992 Supp (1) SCC 335

⁶. (1977) 2 SCC 699

⁷. (1998) 5 SCC 749

Party (Telangana). Without considering the said fact, learned trial Court passed order 22.08.2024, issued notice to the Petitioner - Accused.

4.14. No substantial proof has been filed to show that the Complainant actually lost votes in the State of Telangana due to the alleged speech made by the Petitioner.

4.15. Any complaint or allegation under the RP Act, 1951, has to be made before the Election Commission of India, which is the appropriate authority. The Complainant cannot invoke the provisions of the Code of Criminal Procedure and cannot file a complaint under Section - 200 of the CrPC.

5. CONTENTIONS OF RESPONDENT NO. 2/ COMPLAINANT

5.1. The alleged speech was made as part of a 'strategic and well planned' political narrative to confuse the SC, ST, and OBC voters.

5.2. The alleged false statements of the Petitioner have created mistrust, ill-will, and fear among the voters. Further, the said statements have brought the BJP into disrepute and have caused damage to the BJP in the 2024 General Elections.

- 5.3. Relying on **Mohd. Abdulla Khan v. Prakash K**⁸, it was contended that the ingredients of Section 499 have been satisfied and the Trial Court was justified in taking cognizance.
- 5.4. Relying on **Arvind Kejriwal v. State of U.P.**⁹, it was argued that Section 125 of the RP Act, 1951 is attracted, as the alleged speech promotes enmity between different classes of citizens. The Petitioner's categorical appeal to the voters of SC, ST, and OBC communities that, the BJP will end reservations is sufficient *prima facie* proof of creation of hatred and ill-will in these communities. However, the matter was carried to the Hon'ble Supreme Court *vide* SLP (Crl.) No.13279 of 2024 and the Hon'ble Supreme Court stayed the matter *vide* order dated 30.09.2024.
- 5.5. The alleged speech is 'defamatory per se'. The alleged remarks that, 'BJP will abolish SC, ST & BC reservations' is defamatory on the face of it. Reliance was placed on **Rohini Singh v. State of Gujarat**¹⁰ and **Parmodh Sharma v. Onkar Singh Thakur**¹¹.
- 5.6. The Petitioner cannot contend that, political parties stand on a different footing and are not entitled to reputation. Relying on **Arvind Kejriwal v.**

⁸. (2018) 1 SSC 615

⁹. 2023 SCC OnLine All 14

¹⁰. 2018 SCC OnLine Guj 209

¹¹. 2019 SCC OnLine HP 721

State¹² and **G. Narsimhan v. T.V. Chokkappa**¹³, it was contended that political parties are recognised by the Constitution of India and are an ‘association of people’ under Section 499 of the IPC. Therefore, they are entitled to reputation and initiate proceedings against any individual for defamation.

5.7. A political party, like the Complainant, is an identifiable body. It can be an ‘aggrieved person’ under Explanation 2 of Section 499 of the IPC. Therefore, a criminal complaint against defamation is maintainable at the instance of a political party. Reliance is placed on **Telugu Desam Party v. Union of India**¹⁴ and **Shashi Tharoor v. State (NCT of Delhi)**¹⁵.

5.8. Relying on **Subramanian Swamy v. Union of India**¹⁶, it was contended that right to free speech cannot mean that a person can defame another person.

5.9. A defence of good faith cannot be pleaded by the Petitioner as he failed to exercise care and caution. Further, the repetition of offensive statements disentitles him to claim the benefits of exceptions to Section 499 of the

¹². 2024 SCC OnLine Del 719

¹³. (1972) 2 SCC 680

¹⁴. MANU/TL/0179/2024

¹⁵. 2024 SCC OnLine Del 6005

¹⁶. (2016) 7 SCC 221

IPC. Reliance is placed on **Sewakram Sobhani v. R.K. Karanjia**¹⁷ and **Paras Dass Son of Jugal Kishore v. Paras Dass Son of Baji Nath.**¹⁸

5.10. The contents of the complaint dated 10.05.2024 make out a *prima facie* case of defamation. The learned Magistrate, only after satisfying that a *prima facie* case is made out issued notice to the Petitioner - Accused *vide* order dated 23.08.2024. At this stage, the magistrate is not expected to give detailed reasons. Therefore, there is no error in the impugned order dated 23.08.2024. Reliance is placed on **Bhushan Kumar v. State (NCT of Delhi)**¹⁹.

5.11. The discretion of the learned Magistrate cannot be lightly interfered with. Reliance is placed on **Fiona Shrikhande v. State of Maharashtra**²⁰ and **Nagawwa v. V.S. Konjalgi**²¹.

5.12. The representative of the Complainant i.e., Mr. Kasam Venkateshwarlu was authorised under law to represent. No formal authorization is required under Section 200 of the CrPC to file a complaint alleging defamation.

¹⁷. (1981) 3 SCC 208

¹⁸. 1968 SCC OnLine Del 117

¹⁹. (2012) 5 SCC 424

²⁰. (2013) 14 SCC 44

²¹. (1976) 3 SCC 736

5.13. Relying on **Shashi Tharoor** (Supra), it is contended that BJP is a determinate and identifiable body. If a well-defined class is defamed, each and every member of such class can maintain a complaint. It is pertinent to note that, **Shashi Tharoor** (Supra) was challenged before the Hon'ble Supreme Court *vide* SLP (Crl.) No.12360 of 2024 and the same is pending, wherein the High Court's judgment was stayed *vide* order dated 10.09.2024.

5.14. Further, the 'aggrieved person' in the present case is the BJP Telangana Unit. It is being represented by the State General Secretary, who is one of its senior-most functionaries. Therefore, the question of authorization to maintain the subject complaint does not arise. Reliance is placed on **Maridhas v. S.R.S. Umari Shankar**²², to contend that a complaint for defamation against a political party can only be filed by a high-ranking functionary.

5.15. The complaint, when read as a whole, makes out a case to take cognizance under Section 499 of the IPC and Section 125 of the RP Act, 1951.

²². 2022 SCC OnLine Mad 9151

FINDINGS OF THE COURT

6. It is pertinent to note that, a complaint against criminal defamation under Section 499 of the IPC can only be lodged in accordance with Section 199 of the CrPC. For the sake of convenience, the said provisions are extracted below:

199. Prosecution for defamation.

(1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860), except upon a complaint made by some person aggrieved by the offence :

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union Territory, or a Minister of the Union or of a State, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such

offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction -

(a) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(b) of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(c) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

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.

7. As can be seen from Section 199 (1) of the CrPC, only a 'person aggrieved' can file a complaint alleging defamation. The phrase 'person aggrieved' means that, only a person who has been defamed or claims to have been defamed can lodge a complaint. The complainant shall plead and show that, it was him/her/it, who has been defamed.
8. However, the phrase 'person aggrieved' receives a wider connotation when read with Explanation 2 to Section 499. Essentially, Explanation 2 to Section 499 states that, a company or an association or collection of persons can also be defamed. Where a company or an association or collection of people are defamed, then by virtue of Section 199 of the CrPC, members of such a company or association or collection of people also become 'person aggrieved'. Such members can maintain a complaint under Section 200 of the CrPC.

9. In this regard, reference can be made to **John Thomas v. K. Jagadeesan (Dr)**²³, wherein the Hon'ble Supreme Court has held as follows:

13. The collocation of the words “by some persons aggrieved” definitely indicates that the complainant need not necessarily be the defamed person himself. Whether the complainant has reason to feel hurt on account of the publication is a matter to be determined by the court depending upon the facts of each case. If a company is described as engaging itself in nefarious activities its impact would certainly fall on every Director of the company and hence he can legitimately feel the pinch of it. Similarly, if a firm is described in a publication as carrying on offensive trade, every working partner of the firm can reasonably be expected to feel aggrieved by it. If K.J. Hospital is a private limited company, it is too far-fetched to rule out any one of its Directors, feeling aggrieved on account of pejoratives hurled at the Company. Hence the appellant cannot justifiably contend that the Director of K.J. Hospital would not fall within the wide purview of “some person aggrieved” as envisaged in Section 199(1) of the Code.

(emphasis supplied)

10. However, a person claiming to be a member of a defamed association or collection of people shall show that such an association or collection of people is an identifiable body of persons. In other words, such an association or collection of people shall be a determinable group of people.

²³. (2001) 6 SCC 30

11. In **T.V. Chokkappa** (Supra), the Hon'ble Supreme Court explained the legal position in following terms:

15. Prima facie, therefore, if Section 198 of the Code were to be noticed by itself, the complaint in the present case would be unsustainable, since the news item in question did not mention the respondent nor did it contain any defamatory imputation against him individually. Section 499 of the Penal Code, which defines defamation, lays down that whoever by words, either spoken or intended to be read or by signs etc. makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that the imputation will harm the reputation of such person, is said to defame that person. This part of the section makes defamation in respect of an individual an offence. *But Explanation (2) to the section lays down the rule that it may amount to defamation to make an imputation concerning a company or an association or collection of persons as such. A defamatory imputation against a collection of persons thus falls within the definition of defamation. The language of the Explanation is wide, and therefore, besides a company or an association, any collection of persons would be covered by it. But such a collection of persons must be an identifiable body so that it is possible to say with definiteness that a group of particular persons, as distinguished from the rest of the community, was defamed. Therefore, in a case where Explanation (2) is resorted to, the identity of the company or the association or the collection of persons must be established so as to be relatable to the defamatory words or imputations. Where a writing in weighs*

against mankind in general, or against a particular order of men, e.g., men of gown, it is no libel. It must descend to particulars and individuals to make it a libel. [(1969) 3 Salk 224, cited in Ratanlal and Dhirajlal; Law of Crimes (22nd Edn.) 1317] In England also, criminal proceedings would lie in the case of libel against a class provided such a class is not indefinite e.g. men of science, but a definite one, such as, the clergy of the diocese of Durham, the justices of the peace for the county of Middlesex. [see *Kenny's Outlines of Criminal Law* (19th Edn.) 235]. If a well-defined class is defamed, every particular of that class can file a complaint even if the defamatory imputation in question does not mention him by name.

(emphasis supplied)

12. There is no dispute that a member of a defamed company or association or collection of persons can file a complaint, but the question as to whether a company or an association itself can maintain a complaint for defamation needs to be examined.
13. It follows from a conjoint reading of Section 199 of the CrPC and Explanation 2 to Section 499 of the IPC that, if a company or an association can be defamed, then the company itself or the association itself, as the case may be, can maintain a complaint.
14. A company or an association of people are not natural persons. They act through one of its authorised members. In cases where the company itself or

the association itself intends to file a complaint under Section 199 of the CrPC, the same can be done through an authorised representative by filing proper authorization or documents.

15. The Bombay High Court in **Phaltan Sugar Works Ltd. v. Mansingrao Dhondiram Kadam**²⁴, held that a company through its authorised representative can file a private complaint. The following are the relevant paragraphs:

11. The company on whose behalf the complaints were filed has, therefore, preferred these revision petitions.

12. Although respondent No. 1, original accused, in each of these two cases was duly served, he has not chosen to appear before this Court.

13. Mr. Chitnis for the petitioner-company contended that the view taken by the Additional Sessions Judge is obviously erroneous. *It was submitted by him that the company such as the present one not being a natural person cannot act personally, but must act through its officers, such as the Board of Directors or the Manager or the Secretary and since on behalf of the Board of Directors, presumably on the basis of a resolution passed by the Board of Directors, a General Power of Attorney was executed by one of the directors authorising Mr. Gokhale to take all legal proceedings, both civil and criminal, and to sign plaint, written statement, complaint, petitions, etc. the complaint filed by Mr. Gokhale was a complaint really filed by the*

²⁴. 1977 SCC OnLine Bom 146

aggrieved party. In this connection he pointed out that the complaint was in fact filed by the company but through the holder of power of Attorney. It appears to me that this argument must prevail.

14. Mr. Gokhale was duly authorised to file such a complaint by one of the Directors acting on the strength of a resolution passed by the Board of Directors who were obviously entitled to act on behalf of the company. The view taken by the Additional Sessions Judge, therefore, is obviously erroneous.

(emphasis supplied)

16. Gainful reference may be made to the Madras High Court's decision in **K.R.**

Karalan v. Southern Roadways Ltd.²⁵, wherein the following was held:

4. Mr. Bavanandam, learned counsel for the petitioner in the two cases, raises various contentions to argue that the complaints per se not maintainable and hence the two learned Magistrates in question should not have taken the complaint on file. The first contention raised is that Thiru Chandran, Additional Executive Officer of the respondent company is not an aggrieved person and hence he is not competent to file the complaints. In support of his argument, counsel relies upon 9.199 (1) CrI.P.C. where it is laid down that no Court shall take cognizance of an offence punishable under Chapter XXI of the Penal Code, 1860 except upon a complaint made by some person aggrieved by the offence. By way of Judicial authority for his argument Mr. Bavanadam cites *G. Narasimhan v. T.V. Chokkappa*, (1973) 2 SCR 40 : (1972) 2 SCC 680 : AIR 1972 SC 2609 : 1973 LW (Cri) 59, where the Supreme

²⁵. 1983 SCC OnLine Mad 486

Court laid down that in respect of a complaint made by a company or an association or collection of persons as such, “the identity of the company or the association or the collection of persons must be established so as to be relatable to the defamatory words or imputations”. For more than one reason, the contention of Mr. Bavanandam cannot be accepted. Explanation (2) to S. 499, I.P.C. lays down that it may amount to defamation to make an imputation concerning a company or an association or collection of persons as such. In this case, the statements which are complained of as defamatory refer to the T.V.S. Management or Organisation. In the complaint, it is stated as follows:

“The complainant company is one of the units of the T.V.S.” group of concerns which are generally known to the public and referred to by them as T.V.S.' Company.”

5. Therefore, it follows that everyone who belongs to the management of the group company can be termed an aggrieved person. The company, though a juridical entity, does not have a physical or bodily existence in flesh and blood and, such, only the Directors or the Managerial staff or representatives of the company can institute action on behalf of the company. In this case, the clear averment in the complaint is that Thiru Chandran, Additional Executive. Officer, who has filed the complaint has been duly authorised by the Management of the company to take appropriate legal action in regard to the subject matter of the complaints and connected legal matters. In the light of these factors, there is absolutely no scope for the petitioner to contend that the complaints have not been preferred by an aggrieved person and consequently, the complaints have

*been taken on file in violation of the provisions of S. 199(1)
Crl.P.C.*

(emphasis supplied)

17. Likewise, the Karnataka High Court in **C.M. Ibrahim v. Tata Sons Ltd.**,²⁶

has held as follows:

11. The contention of the learned Senior counsel for the petitioner that the authorised representative of the respondent-Company is not an aggrieved party and as such the complaint before the trial Court is liable to be quashed is unacceptable to me. Section 199, Cr. P.C. specifies that no Court shall take cognizance of an offence punishable under Chapter 21 of IPC, except upon a complaint made by some person aggrieved by the offence. *The Criminal Procedure Code do not define as to what is meant by a person. But Section 11 of IPC defines the word ‘person’ to include any company or association or body of persons whether incorporated or not. It is not in dispute that respondent-Company is a registered public limited company. It is this company which is the complainant before the trial Court in PCR No. 5832/2004. The respondent-Company filed the complainant before the trial Court through its authorised representative. It is needless to say that a company is a person in law and not in fact. A person in law is always required to be represented by a person in fact. The respondent-Company by a resolution authorised a person to file and prosecute the private complaint before the trial Court. Accordingly, the respondent-Company has filed the private complaint through its authorised*

²⁶. 2008 SCC OnLine Kar 625

representative. It is not the authorised representative who is a party before the trial Court but on the other hand it is the respondent-Company who is the complaint before the trial Court. It is the respondent-Company who is aggrieved person in the instant case. Therefore filing of a complaint by an aggrieved company through its authorised representative is in accordance with law and the same is maintainable.

(emphasis supplied)

18. Thus, the position of law is that, a company itself or an association itself can be a 'person aggrieved' and can maintain a complaint alleging criminal defamation. However, such a company or an association shall be a determinable/identifiable group. Further, such identifiable company or association shall duly authorise a person to represent it before the Court.
19. It is stressed that, in cases where a company or an association seeks to file a complaint alleging criminal defamation, the same can only be done through a duly authorised representative. Apart from the fact that initiation of criminal proceedings by a company is a formal act, there is an obvious distinction between a company or an association and its members. Under Section 199 of the CrPC, both, the member of the company or the member of the association and the company or the association itself can maintain a criminal complaint for defamation. Therefore, it becomes necessary to distinguish the company or association from its members. While a company

or association has to show that it is an identifiable group and has been defamed, a member thereof, in addition, has to show that he is part of such an identifiable group. Without due authorisation, no member can claim to represent a company or an association.

20. This brings us to the next issue, i.e., whether a political party can claim to be a ‘person aggrieved’ under Section 199 of the CrPC and whether a criminal complaint against defamation is maintainable by a political party.

21. It is pertinent to note that various High Courts across the country have held that political parties are constitutionally recognised and can initiate proceedings before courts of law. In **Maridhas** (Supra), the Madras High Court had held that a political party can be an ‘aggrieved person’ under Section 199 of the CrPC. The reasoning behind this is the fact that political parties are associations of people and are recognised under Section 29A of the RP Act, 1951 and the X Schedule of the Constitution of India. The relevant paragraphs are extracted below:

8. Section 499 of IPC penalizes harming the reputation of any person. Explanation 2 to Section 499 of IPC states that it may amount to defamation to make an imputation concerning a company or an association or collection of persons as such. The expression “as such” occurring in Explanation 2 is highly significant. It was considered in the decision reported in AIR 1938 Sind 88 (*Ahmedali Adamali v. Emperor*). It was held

therein that if a collection or company of persons as such is defamed one of their members may make a complaint on behalf of the collection or company of persons as a whole, but the defamation must be shown to be of all the persons in the association or collection as such.

9. The expression “person” occurring in the main part of Section 499 of IPC has to be inclusively construed. Section 3 (42) of General Clauses Act, 1897 defines that “person” shall include any company or association or body of individuals, whether incorporated or not. It would obviously include a political party. The expression “political party” is defined in para 2(1)(h) of the Election Symbols (Reservation and Allotment) Order, 1968 thus:

“‘Political party’ means an association or body of individual citizens of India registered with the Commission as a political party under para 3 and includes a political party deemed to be registered with the Commission under the proviso to sub-para (2) of that paragraph”.

When the validity of the Symbols Order was questioned, the Hon'ble Supreme Court in *Kanhiya Lal Omar v. R.K. Trivedi*, (1985) 4 SCC 628 observed as follows:

“10.It is true that till recently the Constitution did not expressly refer to the existence of political parties. But their existence is implicit in the nature of democratic form of Government which our country has adopted. The use of a symbol, be it a donkey or an elephant, does give rise to an unifying effect amongst the people with a common political and economic programme and ultimately helps in the establishment of a Westminster type of democracy which we have adopted

with a Cabinet responsible to the elected representatives of the people who constitute the Lower House. The political parties have to be there if the present system of Government should succeed and the chasm dividing the political parties should be so profound that a change of administration would in fact be a revolution disguised under a constitutional procedure. It is no doubt a paradox that while the country as a whole yields to no other in its corporate sense of unity and continuity, the working parts of its political system are so organised on party basis in other words “on systematized differences and unresolved conflicts.” That is the essence of our system and it facilitates the setting up of a Government by the majority. Although till recently the Constitution had not expressly referred to the existence of political parties, by the amendments made to it by the Constitution (Fifty-Second Amendment) Act, 1985 there is now a clear recognition of the political parties by the Constitution. The Tenth Schedule to the Constitution which is added by the above amending Act acknowledges the existence of political parties and sets out the circumstances when a member of Parliament or of the State Legislature would be deemed to have defected from his political party and would thereby be disqualified for being a member of the House concerned. Hence it is difficult to say that the reference to recognition, registration etc. of political parties by the Symbols Order is unauthorised and against the political system adopted by our country.”

10. A reading of the decision of the Hon'ble Supreme Court in *Desiya Murpokku Dravida Kazhagamv. The Election Commission of India*, (2012) 7 SCC 340 (both the majority decision as well as the dissenting one) enlightens us with the following facts:

“60. Section 29A of the R.P. Act, 1951, provides for the registration of the political parties with the Election Commission. It was inserted in the R.P. Act, 1951 in the year 1989. From the language of Section 29A it appears that registration with the Election Commission is not mandatory for a political party, but optional for those political parties, which intend to avail the benefits of Part IV of the said Act of which Section 29A is also a part.....

119. The expression “political party” was first introduced in the R.P. Act in the year 1989 by the amending Act No. 1 of 1989. Section 2(f) was inserted, which provides for the definition of the expression “political party”. Simultaneously, by the same amending Act, Part - IV A was introduced into the Act, which dealt with the registration of political parties with the Election Commission and the advantages flowing from such registration.

120. The expression “recognised political party” was first introduced in the Act by Act No. 21 of 1996, in the proviso to Section 33 and Sub-Section (2) of Section 38. Later, such an expression was employed in Section 39A and in the second explanation to Sub-Section (1) of Section 77, Section 78A and Section 78B, which occur under Part-VA of the Act by the amending Act No. 46 of 2003.”

11. Though in the dissenting judgment of His Lordship Mr. Justice Jasti Chelameswar, it has been observed that political parties are not bodies corporate but are only associations consisting of shifting masses of people, a recognized political party is very much a distinct entity enjoying constitutional recognition. ***This is particularly on account of the introduction of the X Schedule in the Indian Constitution. The legislative***

wing of a political party can issue commands through its whip. If they are disregarded by the individual legislator, then consequences as contemplated by law will follow. Just as a company was held to be a separate entity apart from its shareholders in the celebrated decision in Salomon v. A. Salomon & Co. Ltd. [[1897] A.C. 22], a recognized political party is also a separate person apart from its members.

(emphasis supplied)

22. A Division Bench of this Court in **Ramadhuta Creations v. Telugu Desam Party**²⁷, has held that a political party can be an ‘aggrieved person’ and can maintain a writ petition. The relevant paragraph is extracted below:

22. Thus, a person whose rights are affected or infringed is a person aggrieved and has locus to maintain the petition. The expression ‘aggrieved person’ is elastic and elusive concept and its scope and meaning depends on the content and intent of the statute of which contravention is alleged and the specific circumstances of the case, the nature and extent of person's interest and nature and extent of prejudice or injury suffered by him. It is well settled in law that rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in a case of habeas corpus or quo-warranto. Another exception to this Rule is where the writ petition is filed in public interest. The orthodox rule of interpretation regarding locus of a person to reach the court has undergone a sea change with the development of constitutional law in India and the constitutional courts have been adopting a liberal approach in

²⁷. 2024 SCC OnLine TS 13

dealing with the cases or dislodging the claim of a litigant merely on hypertechnical grounds (see *Ghulam Qadir v. Special Tribunal*). A person to whom the legal grievance has been caused, can maintain a writ petition (see *Samir Agrawal v. Competition Commission of India*). ***The TDP is claiming violation of the statutory right under Section 5B of the Act and Rule 24 of the Certification Rules, and therefore cannot be said to be a stranger having no right. Therefore, it is an aggrieved person.***

23. In *Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India*, a three-Judge Bench of the Supreme Court dealt with the issue whether a large body of persons having a common grievance though not belonging to registered Trade Union can maintain a writ petition under Article 32 of the Constitution of India. The aforesaid issue was answered in the affirmative by the Supreme Court and it was held that processual jurisprudence in our country is not of individualistic Anglo-Indian mould and is broad-based and people-oriented and envisions access to justice through ‘class actions’ and therefore, the writ petition at the instance of an unrecognized association was held to be maintainable. ***The TDP is a political party, which is a body of persons, the members of which subscribe to a particular ideology. The TDP on behalf of its members has approached the court seeking violation of the statutory right under the Act and the Certification Rules.***

(emphasis supplied)

23. Therefore, a political party can be an 'aggrieved person' under Section 199 of the CrPC and can maintain a complaint against criminal defamation. This Court rejects the contention of the Petitioner that, political parties do not enjoy reputation and cannot maintain a complaint for criminal defamation.
24. Now the next question to consider is whether the Complainant herein could have filed and maintained the complaint dated 10.05.2024.
25. It is pertinent to note that, the Bharatiya Janata Party is recognised as a ***national party*** by the Election Commission of India. Meaning thereby that, there is only one Bharatiya Janata Party which is recognised as a political entity. **Maridhas (Supra)**, relied upon by the Petitioner, also held that a political party is an association on account of its recognition with the Election Commission of India under the RP Act, 1951 and the Constitution of India. The state units of a political party are not separately recognised by the Election Commission of India under the RP Act, 1951. Further, for the purposes of Schedule X of the Constitution of India too, it is only the 'national unit' of the political party which is recognised. The state units of a national political party have no independent/separate existence. In the absence of any recognition, the Telangana unit of the Bharatiya Janata Party, i.e., the Complainant - Bharatiya Janata Party (Telangana) cannot claim to

be a separate identifiable group independent of the Bharatiya Janata Party, the national party.

26. Even if one were to assume that the Complainant, i.e., the Telangana unit of the Bharatiya Janata Party is an identifiable and a determinable group, it is not an 'aggrieved person'.
27. Admittedly, the alleged defamatory speech was made against the Bharatiya Janata Party. It is also admitted that, the alleged speech was made during the election campaign for the 2024 general elections in the country. This obviously indicates that the speech alluded to the national unit of the Bharatiya Janata Party. A perusal of the alleged defamatory speech also indicates that, no reference was made to the Telangana unit of the Bharatiya Janata Party.
28. It is not in dispute that Bharatiya Janata Party (Telangana) represented by its State General Secretary, Mr. Kasam Venkateshwarlu, has filed the complaint in its independent capacity. However, as the alleged defamatory speech was directed towards the national unit or the Bharatiya Janata Party, the Complainant herein is not directly defamed or aggrieved. Therefore, Mr. Kasam Venkateshwarlu, claiming to be the General Secretary of Bharatiya Janata Party Telangana Unit could have filed the complaint contending that being the Member of Bharatiya Janata Party and also the General Secretary

of Telangana Unit of Bharatiya Janata Party is an aggrieved person by the said speech. He could have contended that he is a member of the allegedly defamed association of people i.e., Bharatiya Janata Party.

29. It was never pleaded nor stated in the complaint that the Complainant filed the criminal complaint dated 10.05.2024 as a member of the Bharatiya Janata Party. The Complainant asserted that it is a separate identifiable group and was aggrieved by the alleged speech. Therefore, this Court holds that, the Complainant, in its individual capacity as a separate state unit, was not directly aggrieved and it is not a separate legal entity. Mr. Kasam Venkateshwarlu could have maintained a complaint only as a member of the allegedly defamed association or collection of people, i.e., the Bharatiya Janata Party.

30. Even if this Court were to accept that the Complainant is a part of the national unit of the Bharatiya Janata Party and may be treated as a member of the Bharatiya Janata Party, the complaint is not maintainable for the lack of authorisation. Neither the Complainant nor its representative, Mr. Kasam Venkateshwarlu, were authorised by the national unit of the Bharatiya Janata Party to file the complaint. As discussed supra, in the context of companies and associations like political parties, authorisation is a *sine qua non* to maintain a criminal complaint under Section 199 of the CrPC.

31. In **Tamilisai Soundararajan v. Dhadi K. Karthikeyan**²⁸, the Madras High Court has held that where a political party is defamed, only an authorised representative or the party president can maintain a complaint under Section 199 of the CrPC. The relevant paragraphs are extracted below:

16. However, in the case, on hand, as averred by the petitioner in the affidavit, the private complaint has been filed by the respondent, as a member of the political party against statements alleged to have been made against the political party and its Party President. However, neither the person nor the party, which is alleged to have been affected by the said statements have given any authorization to the respondent to file the said private complaint. The respondent, on his own accord, for reasons best known to him, has thought it fit to file the said private complaint and the respondent, being not a person affected by the said alleged statement, invocation of the offence u/s 500 IPC does not merit acceptance.

17. From the above, it is implicitly clear that the respondent has taken it on his own to file the private complaint on the basis of some statements alleged to have been made by the petitioner against some other person/entity with which he has no grievance as there is no case of defamation as against him and the ingredients prescribed under sub-section (6) to Section 199 Cr.P.C. in no way stands fulfilled. Therefore, the private complaint alleging defamation has no legs to stand and the cognizance taken on the said complaint deserves to be quashed.

(emphasis supplied)

²⁸. 2021 SCC OnLine Mad 5317

32. In the present case, the national unit of the Bharatiya Janata Party or the recognised Bharatiya Janata Party was allegedly defamed. There was no authorisation to the Telangana unit of the Bharatiya Janata Party to file a complaint. Further, no such authorisation was given to Mr. Kasam Venkateshwarlu to file a complaint under Section 199 of the CrPC.
33. The Complainant's reliance on **Maridhas** (Supra) is misplaced. Mr. Kasam Venkateshwarlu is the General Secretary of a singular State Unit. This Court finds it difficult to consider him an authorised representative of the Bharatiya Janata Party and he had been authorized to file the present complaint against the petitioner for defamation.
34. For the aforesaid reasons, this Court holds that the Complainant / Respondent No. 2 herein represented by Mr. Kasam Venkateshwarlu could not have maintained the complaint dated 10.05.2024.
35. It is apt to note that in the additional counter affidavit filed by respondent No.2, it has been stated that in early May, 2024 when General Elections, 2024 were in progress, Mr. Kasam Venkateshwarlu was instructed by the Telangana BJP President, Mr. G. Kishan Reddy, to file a criminal case against the petitioner for making a false and defamatory statement against his Party, i.e., the BJP will abolish SC, ST and BC reservations if voted to power. Being General Secretary of a State Unit, Mr. Kasam Venkateshwarlu

executed the decision of the State of President. It is further stated that after due consultation under the guidance of Telangana BJP Legal Cell Team, he filed the said complaint. The said facts were not mentioned in the complaint filed by respondent No.2, dated 10.05.2024. The said facts were also not stated by Mr. Kasam Venkateshwarlu in his deposition before the trial Court.

36. It is also noteworthy that, during the cross-examination, the Complainant has categorically admitted that he did not file any document to show that he is the State General Secretary of Bharatiya Janata Party along with his complaint and he did not file any authorisation given by Bharatiya Janata Party authorising him to file the said complaint.

37. It is trite law that, power of quashing should be exercised very sparingly and circumspection and that too in the rarest of rare cases. However, where the initiation of criminal proceedings suffers from material defects or where such criminal proceedings constitute abuse of process, the inherent powers can be exercised to quash criminal proceedings.

38. In **Om Prakash v. State of Jharkhand**²⁹, the Hon'ble Supreme Court has held as follows:

“43. In our considered opinion, in view of the facts which we have discussed hereinabove, no inference can be drawn in this case that the police action is indefensible or vindictive or

²⁹. (2012) 12 SCC 72

that the police were not acting in discharge of their official duty. In *Zandu Pharmaceutical Works Ltd.* [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] this Court has held that the power under Section 482 of the Code should be used sparingly and with circumspection to prevent abuse of process of court but not to stifle legitimate prosecution. There can be no two opinions on this, but, if it appears to the trained judicial mind that continuation of a prosecution would lead to abuse of process of court, the power under Section 482 of the Code must be exercised and proceedings must be quashed. Indeed, the instant case is one of such cases where the proceedings initiated against the police personnel need to be quashed. In the circumstances, we dismiss the appeal filed by the complainant Kailashpati Singh. We allow the appeal filed by Om Prakash, Pradeep Kumar, Shyam Bihari Singh and Bharat Shukla and set aside the impugned order to the extent it dismisses Crl. MP No. 822 of 2005 filed by them for quashing the order dated 14-6-2005 passed by the Judicial Magistrate, First Class, Jamshedpur, in Complaint Case No. 731 of 2004 issuing process against them. We quash Complaint Case No. 731 of 2004 pending on the file of the Judicial Magistrate, First Class, Jamshedpur.”

39. This Court refrains to discuss the contents of the alleged speech and the issue of its defamatory nature. However, this Court agrees with the Petitioner’s submissions that, where political speeches are involved, the threshold to allege defamation and maintain a complaint under Section 199

of the CrPC shall be much higher. Political speeches are often exaggerated. To allege that such speeches are defamatory is another exaggeration.

40. In light of the aforesaid discussion, the present Criminal Petition is allowed and the order dated 23.08.2024 in C.C. No. 312 of 2024 and the entire proceedings arising out of C.C. No. 312 of 2024, pending on the file of the Principal Special Judicial First-Class Magistrate for Excise Cases at Hyderabad, are hereby quashed.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

K. LAKSHMAN, J

1st August, 2025

Note: L.R. Copy be marked.
(BO.) Mgr