HC-KAR
NC: 2026:KHC:58498
CRL.P No. 671 of 2021
CNR: KAHC010208282020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.671 OF 2021

BETWEEN:

1. MAHAMMED HANIF
   S/O HAJI MOIDEEN
   AGED ABOUT 48 YEARS
   R/AT 2-43A/9,
   2ND BLOCK, KATIPALLA HOUSE
   MANGALORE D.K.-575030.

2. MOIDIN
   S/O MUHAMMED
   AGED ABOUT 39 YEARS
   R/AT 2-58, INDIRA NAGAR
   HELEYANGADY
   MANGALORE, D.K.-574146.

3. ABBUBAKKAR
   S/O B. HAMMABBA
   AGED ABOUT 49 YEARS
   R/AT 6-135 J/A
   SITE NO.236, AROOBA ENCLAVE
   6TH BLOCK, KRISHNAPURA
   SURATHKAL, MANGALORE
   D.K.-575014.

4. SHAHUL HAMEED
   S/O BAVA BYARI
   AGED ABOUT 49 YEARS
   R/AT # 14/48, MADDA HOUSE

B MOODA BANTWAL
JODUMARGA
DK-574219.

5. YASEER ARAFAT
S/O HASANABBA K
AGED ABOUT 44 YEARS
R/AT # 20.2-141/76,
FLAT NO 802/A, 4TH FLOOR
NALAPAD KUNIL TOWER
NELLIKARYI ROAD
KASABA BAZAR,
MANGALORE-575013.

6. K.M. SIRAJUDDIN
S/O K. MAYYADDI
DOOR NO 2-103-34(2)
GANDHI NAGAR POST
KAVOOR
MANGALORE-575015.

7. MOHAMMED IQBAL
S/O V. ABDUL KADAR
AGED ABOUT 39 YEARS
R/AT # 7-562,
KASBA BAZAR, BUNDER,
MANGALORE D.K.575001.

8. MOHAMMAD NAWAZ
S/O ISMAIL
AGED ABOUT 46 YEARS
R/AT # 196-84/14,
ISMAIL MASTER COMPOUND
MASTIKATTE ULLAR
D.K.575020.

9. ABDUL KADAR
S/O UNCHI BYARI
AGED ABOUT 46 YEARS
R/AT # 2-141/8, FLAT NO.206

MALAOAD KUNIL TOWER BLOCK
NELLIKAI ROAD,
PANDESHWARA POST
DK-575001.

10. ABDUL RAZAK
S/O MARPU BYARI
AGED ABOUT 55 YEARS
R/AT # 4-19,
TENKAYADAPADU
MANGALORE, DK-575020.

11. ABDUL HAKEEM
S/O P.S. MOIDEEN KUNCHI
AGED ABOUT 29 YEAR
R/AT # 1-44,
POOMAN HOUSE
NEAR FALHAL SCHOOL
KC NAGAR TALAPADY
DK-575023.

12. MOHAMMED SEENAN
S/O MOOSA KUNCHI
AGED ABOUT 24 YEARS
R/AT # 18-34/10,
DHARMANAGAR BOTTU ULLAL
MASTIKATTE ULLAL,
MANGALORE, DK-575020.

13. ABBOBAKKAR SIDDIK
S/O U.B. ALIYABBA
AGED ABOUT 44 YEARS
R/AT # 18-34/21(2)
ASMA MANZIL
BAIL BOTTU ULLAL
MANGALORE, DK-575020.

…PETITIONERS

(BY SRI. ISMAIL MUNEEB MUSBA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   THROUGH MANGALORE PS
   REPRESENTED BY THE
   STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDING
   HIGH COURT OF KARNATAKA
   BANGALORE-560001.

2. SEETHARAMA GOWDA
   AGED ABOUT 55 YEARS
   R/AT MANGALORE SOUTH PS
   PANDESHWAR
   MANGALORE CITY
   D.K.-575001.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1 AND R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR DATED 16.11.2019 IN CR.NO.222/2019 AND COMPLAINT REGISTERED BY THE RESPONDENT POLICE AGAINST THE PETITIONER FOR ALLEGED OFFENCE PUNISHABLE UNDER SECTION 3 OF KARNATAKA OPEN PLACE DISFIGUREMENT ACT, 1951 AND SECTIONS 153A, 295A AND 120B OF IPC, PENDING ON THE FILE OF J.M.F.C.-II COURT, MANGALORE CITY, D.K., PRODUCED HERETO AS ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard learned counsel for petitioners and learned High Court Government Pleader for respondent Nos.1 and 2.

2. The prayer is sought before this Court to quash FIR in Crime No.222/2019 registered against the petitioners under Sections 153A, 295A and 120B of Indian Penal Code and Section 3 of Karnataka Open Place Disfigurement Act, 1951 and 1981.

3. The FIR is registered based on the complaint lodged by Assistant Sub-Inspector of Police, Mangalore South Police Station, Pandeshwar, Mangalore, wherein in the complaint-Annexure-B, it is stated that judgment delivered by the Apex Court is denial of justice and raise the voice for justice and it is also mentioned that it is from 'Popular front of India' and the same slogans were found in the walls by the side of the road. Hence, invoked the above offences and registered the case.

4. Learned counsel appearing for the petitioners would submit that very registration of case against the petitioners is an error and complaint does not disclose any offence for invoking the offence under Sections 153A and 295A and even there is no conspiracy to invoke Section 120B of IPC. The counsel also would contend that under Article 19 of Constitution of India, all citizens have right to 'freedom of speech' and when

the judgment was delivered, the said slogan was found in the walls by the side of the road, but that does not amount to sedition for invoking the offence under Section 295A and this Court has to exercise the powers under Section 482 of Cr.P.C.

5. Learned counsel appearing for the petitioners in support of his argument relied upon recent judgment of the Apex Court in **JAVED AHMAD HAJAM vs. STATE OF MAHARASHTRA AND ANOTHER** reported in **(2024) 4 SCC 156** and in this judgment, the Apex Court discussed scope of Article 19(1)(a) of Constitution of India and right to lead dignified life under article 21 and cautioned however, the protest or dissent must be within fours of modes permissible in a democracy. The said right is subject to reasonable restrictions imposed in accordance with Article 19(2). The counsel also brought to notice of this Court when the discussion was made with regard to Section 153-A, offence of sedition, Test is of general impact of words or expressions on significant number of reasonable people, right to dissent against Government decisions in lawful manner forms part of democracy and is protected under Article 19(1)(a) and 21 of the Constitution and

also the Court has to take note of intention and essential ingredient of offence under Section 153A. The counsel also brought to notice of this Court when the FIR is registered, the Apex Court has stated that police must be sensitized in democratic values enshrined in the Constitution, including the right to dissent against and criticize Government decisions when done in a lawful manner.

6. The counsel also relied upon judgments of the Apex Court in **BILAL AHMED KALOO vs. STATE OF A.P.** reported in **(1997) 7 SCC 431, MANZAR SAYEED KHAN vs. STATE OF MAHARASHTRA AND ANOTHER** reported in **(2007) 5 SCC 1** and order passed by this Court in **MAHABOOB GHOUSE AND OTHERS vs. STATE OF YADGIRI TOWN POLICE** in **W.P.NOS.19700-19715/2015** dated **06.12.2018**, order passed by this Court in **SRI AJIT HANUMAKKANAVAR vs. STATE OF KARNATAKA AND ANOTHER** in **CRL.P.NO.6/2019** dated **24.01.2019,** so also order passed by this Court in **SRI K.N. SHAILESH HOLLA vs. THE STATE OF KARNATAKA AND ANOTHER** in **W.P.NO.24900/2018** dated **27.01.2020** and order passed in **MOHAMMED**

ATAULLA A AND OTHERS vs. THE STATE OF KARNATAKA in **CRL.P.NO.3768/2020** dated **05.10.2020.** The counsel also relied upon order passed by this Court in **SUNIL VALYAPURE vs. THE STATE OF KARNATAKA** in **CRL.P.NO.201377/2016** dated **06.01.2017.** The counsel relying upon these judgments would vehemently contend that the case on hand will not attract Section 153A of IPC and so also Section 295A of IPC.

7. Learned High Court Government Pleader appearing for respondent Nos.1 and 2 would submit that immediately after pronouncement of judgment by the Apex Court, these petitioners have reacted and posted the posters that too in a public place which leads to creating disharmony in the Country. Hence, it attracts Sections 153A and 295A of IPC. Therefore, it does not require any interference.

8. Having heard learned counsel appearing for petitioners and learned High Court Government Pleader appearing for respondent Nos.1 and 2, the Court has to take note of contents of the complaint while exercising the power under Section 482 of Cr.P.C. Having perused the contents of complaint, it is very clear that, suo motu, complaint is

registered by police and complaint is given by the Station House Officer with the ACP of Mangalore South. Having perused the contents of complaint also, when the judgment was delivered by the Apex Court, it is stated that it is denial of justice and raise the voice against judgment and when such posters are found in a public place, case was registered.

9. Having considered the same, it appears that a voice is raised with regard to judgment of the Apex Court, that too, word used is only denial of justice and raise the voice for justice. When such being the case, it will not attract ingredients of offence under Sections 153A and 295A of IPC, the Court has to take note of discussion made by the Apex Court in the judgment. The Apex Court in the recent judgment in ***Javed Ahmad Hajam's*** case and also considering the principles laid down in the judgment particularly, in ***Bilal Ahmed Kaloo's*** case, discussion was made with regard to Section 153A and also the ingredients of offences. Though the said slogans are against dissatisfaction of the judgment of the Apex Court, while invoking Section 153A, there must be ingredient of sedition against the State.

10. The counsel also brought to notice of this Court, discussion made in paragraph No. 15 of judgment in ***Javed Ahmad Hajam's*** case, wherein also taken note of possibility of stirring up the emotions of a group of people cannot be ruled out. The appellant's college teachers, students, and parents were allegedly members of the WhatsApp group and the same is also taken note of. The people of our country know the importance of democratic values. Therefore, it is not possible to conclude that the words will promote disharmony or feelings of enmity, hatred or ill will between different religion groups and so also, discussed in detail with regard to the test is of the general impact of the utterances on reasonable people who are significant in numbers. Merely because a few individuals may develop hatred or ill will, it will not be sufficient to attract clause (a) of sub-section (1) of Section 153-A IPC.

11. Having considered the discussion made in detail by the Apex Court and the principles laid down, it is a fit case to exercise the power under Section 482 of Cr.P.C to quash the proceedings, as the same is dissent about the judgment and the same is not in the term of creating disharmony and only it

is stated that justice is denied and raise voice and the same is within the scope of Articles 19 and 21 of the Constitution of India.

12. In view of the discussion made above, I pass the following:

ORDER

(i) The criminal petition is ***allowed.***

(ii) The FIR in Crime No.222/2019 registered against the petitioners under Sections 153A, 295A and 120B of Indian Penal Code and Section 3 of Karnataka Open Place Disfigurement Act, 1951 and 1981, is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 27