



CNR: KAHC010439052024

NC: 2026:KHC:41847
CRL.P No. 7536 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 7536 OF 2024

BETWEEN:

1. SRI. MAHESH TENGINKAI
S/O. CHANNAVEERAPPA,
AGED ABOUT 54 YEARS,
R/A. 9, BASAVESHWARA NAGAR,
NEAR GOVERNMENT SCHOOL,
GOKUL ROAD, HUBLI,
KARNATAKA - 580 030.
2. SRI. PRAVEEN
ALIAS GADIGEPPA HURALI
AGED ABOUT 34 YEARS,
S/O TANAJI,
NO. 24/B, UDAY NAGAR,
BENGERI, KESWAPUR,
HUBLI, DHARWAD - 580 023.
3. SRI. YALLAPPA NAVALUR
S/O BASAVANNAPPA
AGED ABOUT 67 YEARS,
RESIDING AT, 162, KUMBAR ONI,
NEAR MARUTI TEMPLE, KESWAPUR,
HUBLI, DHARWAD - 580 023.

...PETITIONERS

(BY SRI. VIVEK REDDY, SR. ADVOCATE FOR
SRI. K.N. SUBBA REDDY, ADVOCATE)

Digitally signed
by
PADMAVATHI
B K

Location: High
Court of
Karnataka



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AND:

1. STATE OF KARNATAKA
REPRESENTED BY KESHWAPURA
POLICE STATION,
HUBBALI NORTH SUB DIVISION
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.
2. SRI. CHANAPPAGOUDA,
S/O. KEMPEGOUDA,
AGED ABOUT 56 YEARS,
GOVERNMENT OFFICIAL,
BEO OFFICE, GHANTIKERI,
HUBBALI, DHARWAD - 580 030.

...RESPONDENTS

(BY SRI. ANOOP KUMAR, ADDL. SPP FOR R1;
R2 - SERVED)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO
ALLOW THIS PETITION AND QUASH THE IMPUGNED CHARGE
SHEET WHICH CAME TO BE REGISTERED IN
C.C.NO.23346/2023 FOR THE OFFENCE P/U/S 341, AND 171F
R/W SEC.34 OF IPC ON THE FILE OF THE LEARNED 42ND
A.C.M.M BENGALURU BY KESHAVAPURA P.S. HUBLI IN
CR.NO.50/2023 VIDE ANNEXURE A TO C.

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



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

ORAL ORDER

The petitioners - accused Nos.1 to 3 are at the doors of this Court calling in question the proceedings in C.C.No.23346/2023 registered for offences punishable under Sections 341, 171F read with Section 34 of the Indian Penal Code, 1860 ('the IPC' for short).

2. Heard Sri. Vivek Reddy, learned Senior counsel for Sri. K.N. Subba Reddy, learned counsel appearing for the petitioners and Sri. Anoop Kumar, learned Additional State Public Prosecutor appearing for respondent No.1.

3. Facts adumbrated are as follows:

The events date back to the period of the Karnataka Legislative Assembly Elections, 2023. It transpires that the petitioners along with others, formed a group and put a garland over the statue of Basaveshwara at Keshavapura, Sarvodaya Circle. The garlanding of Basaveshwara by the conglomeration of people holding the flags of a particular party led the flying squad to register a complaint on 23.04.2023. The complaint is



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investigated into and a charge sheet comes to be filed before the concerned Court. On perusal of the charge sheet the concerned Court takes cognizance for offences punishable under Sections 341, 171F read with Section 34 of the IPC. Taking of cognizance and issuance of summons by the concerned Court is what has driven the petitioners to this Court in the subject petition.

4. Sri. Vivek Reddy, learned Senior counsel appearing for the petitioners would vehemently contend that garlanding of a statue of Basaveshwara would not amount to an undue influence during the elections or impersonation and wrongful restraint, as is alleged under Sections 171F and Section 341 of the IPC respectively, and these offences would not be applicable in the case at hand. Therefore, either the charge sheet is filed for offences that cannot even be alleged or the cognizance is taken for the incorrect offences, is the submission of the learned Senior counsel.

5. The learned Additional State Public Prosecutor would however refute the above submission and contends that



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the charge sheet is filed after investigation and the ingredients of the offences are clearly met. Therefore, the petitioners have to come out clean in a full blown trial and would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts, dates, link in the chain of events are all a matter of record. They would not require any iteration. The incident takes place on 23.04.2023 when the workers of a particular party form a conglomeration and sought to garland the statue of Basaveshwara in Keshavapura, Sarvodaya Circle. This event leads the flying squad to take action by registering the complaint on 23.04.2023. The complaint reads as follows:

"ದಿನಾಂಕ: 23/04/2023

ಗೆ,
ತಾಣಾಧಿಕಾರಿಗಳು,
ಕೇಶವಪುರ ಪೊಲೀಸ್ ಠಾಣೆ,
ಹುಬ್ಬಳಿರವರಿಗೆ,



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ಮಾನ್ಯರೇ,

ನಾನು ಚನ್ನಪ್ಪಗೌಡ ತಂದೆ ಕೆಂಚೇಗೌಡ ವಯಸ್ಸು 56 ವರ್ಷ, ಜಾಧಿ, ಹಿಂದೂ ಒಕ್ಕಲಿಗ ಉದ್ಯೋಗ ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳು (ಬಿ.ಇ.ಓ.) ಘಂಟಿಕೇರಿ ಹುಬ್ಬಳ್ಳಿ ಮೊಬೈಲ್ ಸಂಖ್ಯೆ 9480695185 ಈ ಕೆಳಗಿನಂತೆ ಮಾದರಿ ನೀತಿ ಸಂಹಿತೆ ಉಲ್ಲಂಘನೆ ಕುರಿತು ದೂರನ್ನು ನೀಡುತ್ತಿದ್ದೇನೆ.

ನನಗೆ ಸದ್ಯ ವಿಧಾನ ಸಭೆಯ ಚುನಾವಣೆಯ ಸನ್ 2023ನೇಯದ್ದರ ಪ್ರಯುಕ್ತ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಫೈಯಿಂಗ್ ಸ್ಟಾಡ್ ಟೀಂ ಹುಬ್ಬಳ್ಳಿ ಧಾರವಾಡ ಸೆಂಟ್ರಲ್ ವಿಧಾನ ಸಭಾ ಕಕ್ಷೇತ್ರದ ಅಧಿಕಾರಿ ಅಂತ ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಹಾಗೂ ಜಿಲ್ಲಾ ಚುನಾವಣಾಧಿಕಾರಿಗಳು ಇವರ ಆದೇಶ ಸಂಖ್ಯೆ ಚುನಾವಣೆ ಅವಧಿ 2022-2023 ದಿನಾಂಕ 30/09/2023ರ ಆದೇಶದನ್ವಯ ಪೈಯಿಂಗ್ ಸ್ಟಾಡ್ ಟೀಂ-1 ಹುಬ್ಬಳ್ಳಿ ಧಾರವಾಡ ಸೆಂಟ್ರಲ್ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಆಗಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತೇನೆ. ನಾನು ದಿನಾಂಕ 23/04/2023 ರಂದು ಬೆಳಿಗ್ಗೆ ಸಂದಿಯಂತೆ, 06 ಗಂಟೆಯಿಂದ 14 ಗಂಟೆಯವರೆಗೆ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ನನ್ನ ಸಂಗಡ ಎ.ಎಸ್.ಐ.ಡಿ. ಹಳಮುನಿ ಹಾಗೂ ಆರ್.ಪಿ.ರಾಶಿದ್ ಕಾನ್ ಹೆಚ್.ಸಿ.1640 ಹಾಗೂ ವಿಡಿಯೋಗ್ರಾಫರ್ ರಮೇಶ್ ಮಹದೇವಪ್ಪ ಅಮಟ್ಟಿ ಇವನನ್ನು ಕರೆದುಕೊಂಡು ಹುಬ್ಬಳ್ಳಿ ಕೇಶವಪುರದ ಸರ್ವೋದಯ ಸರ್ಕಲ್‌ನಲ್ಲಿರುವ ಶ್ರೀ ಬಸವೇಶ್ವರ ಪುತ್ಥಳಿ ಹತ್ತಿರ ಸುಮಾರು 10:35 ಗಂಟೆಯಲ್ಲಿ ಬಿ.ಜೆ.ಪಿ. ಅಭಿಧಿ ಮಹೇಶ್ ತೆಂಗಿನಕಾಯಿ ಹಾಗೂ ಇವರ ಸಂಗಡ, ಪ್ರವೀಣ್ ಹುರಳಿ ಹಾಗೂ ಯಲ್ಲಪ್ಪ ನವಲೂರ್, ಕೇಶವಪುರ ಹುಬ್ಬಳ್ಳಿ 20 ರಿಂದ 25 ಜನರ ಗುಂಪು ಇದರಲ್ಲರೂ ತೆಗೆದುಕೊಂಡು, ಶ್ರೀ ಬಸವೇಶ್ವರ ಜಯಂತಿ ಪ್ರಯುಕ್ತ ಕೇಶವಪುರದ ಸರ್ವೋದಯ ಸರ್ಕಲ್‌ನಲ್ಲಿರುವ ಬಸವೇಶ್ವರ ಪುತ್ಥಳಿ ಮಾಲಾರ್ಪಣೆ ಮಾಡುವ ನೆಪದಲ್ಲಿ, ಎಲ್ಲೆಡೆ ಬಿ.ಜೆ.ಪಿ. ಪಕ್ಷದ ಧ್ವಜ ಹಾಗೂ ಶಾಲು, ಟೋಪಿ ಹಾಕಿಕೊಂಡು ಸಾರ್ವಜನಿಕರಿಂದ ಮನಸೆಳೆಯುವ ಉದ್ದೇಶದಿಂದ ಚುನಾವಣಾ ಅಧಿಕಾರಿಗಳಿಂದ ಯಾವುದೇ ಅನುಮತಿ ಪಡೆಯದೇ ಬಸವೇಶ್ವರ ಪ್ರತಿಮೆಗೆ ಮಾಲಾರ್ಪಣೆ ಮಾಡುವ ಕಾಲಕ್ಕೆ ಸರ್ವೋದಯ ಸರ್ಕಲ್ ನಲ್ಲಿ ಬರಹೋಗುವ ಸಾರ್ವಜನಿಕರಿಗೆ ಹಾಗೂ ವಾಹನಗಳ ಸುಗಮ ಸಂಚಾರಕ್ಕೆ ಅಡತಡೆಯನ್ನುಂಟು ಮಾಡಿ ಮಾದರಿ ಚುನಾವಣಾ ನೀತಿ ಸಂಹಿತೆ ಉಲ್ಲಂಘನೆ ಮಾಡಿದ್ದು, ಸದರಿಯವರ ಮೇಲೆ ಕಲಂ143, 147, 341, 171ಎಫ್, ಸಹ ಕಲಂ 149 ಐಪಿಸಿ ಮತ್ತು ಕಲಂ 123 (2) ಆರ್.ಪಿ. ಆಕ್ಟ್ 1951 ನೇದ್ದರಡಿಯಲ್ಲಿ ನನ್ನದು ಸರ್ಕಾರಿ ತರ್ಫಿ ಫಿರ್ಯಾದಿ ಇರುತ್ತದೆ. ಈ ಘಟನೆಯ ಬಗ್ಗೆ ನಮ್ಮ ತಂಡದಲ್ಲಿ ವಿಡಿಯೋಗ್ರಾಫರ್



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ಆದ ರಮೇಶ್ ಆದಟ್ಟೆ ಇವರಿಂದ ಘಟನೆಯ ಸಂಪೂರ್ಣ ಚಿತ್ರೀಕರಣ ಮಾಡಿಸಿ ಈಗ ಬಂದು ದೂರು ಕೊಡುತ್ತಿದ್ದೇನೆ.

ಸ್ಥಳ: ಹುಬ್ಬಳ್ಳಿ

ದಿನಾಂಕ: 23/04/23

ತಮ್ಮ ವಿಶ್ವಾಸಿ,

ಚನ್ನಪ್ಪಗೌಡ ತಂದೆ ಕೆಂಚೇಗೌಡ,
ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಪ್ಲೇಯಿಂಗ್ ಸ್ಟಾಂಡ್
ಟೀಂ-1, 73, ಹುಬ್ಬಳ್ಳಿ-ಧಾರವಾಡ
ಸೆಂಟ್ರಲ್ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ.

ದಿನಾಂಕ 23/04/2023 ರಂದು 12:30 ಘಂಟೆಗೆ ಸದರಿಯವರ ದೂರನ್ನು ಸ್ವೀಕರಿಸಿ ರಾಣೆಯ ಗುನ್ನಾ ನಂ.50/2023 ಕಲಂ 143, 147, 341, 171(ಎಫ್) ಆರ್.ಡಬ್ಲ್ಯೂ 149 ಐಪಿಸಿ ಮತ್ತು ಸಬ್ 123(2) ಆರ್.ಪಿ. ಆಕ್ಟ್ 1951 ನೇದ್ದಕ್ಕೆ ಪ್ರಕರಣ ದಾಖಲಿಸಿಕೊಂಡಿದೆ."

The Police conduct investigation and file a charge sheet. The summary of the charge sheet as obtaining in column No.17 reads as follows:

"ದೋಷಾರೋಪಣೆ ಪತ್ರದ ಕ್ರಮಸಂಖ್ಯೆ 17 ಕ್ಕೆ ಪ್ರತ್ಯೇಕ ಪುರವಣಿ.

ಹುಬ್ಬಳ್ಳಿ ಕೇಶ್ವಾಪೂರ ಪೊಲೀಸ್ ರಾಣೆಯ ಅಪರಾಧ ಸಂಖ್ಯೆ: 50/2023 ಕಲಂ: 341, 171(ಎಫ್) ಸಹಕಲಂ: 34 ಐಪಿಸಿ ಮತ್ತು ಕಲಂ 123(2) ಆರ್‌ಪಿ ಕಾಯ್ದೆ 1950.

ಮಾನ್ಯ ಘನ ನ್ಯಾಯಾಲಯದ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಹುಬ್ಬಳ್ಳಿ ಕೇಶ್ವಾಪೂರ ಪೊಲೀಸ್ ರಾಣೆಯ ಹದ್ದಿ ವೈಕಿ ಹುಬ್ಬಳ್ಳಿ ಕೇಶ್ವಾಪೂರ ಸರ್ವೋದಯ ಸರ್ಕಲ್ ಬಸವೇಶ್ವರ ಮೂರ್ತಿ ಹತ್ತಿರ ದೋಷಾರೋಪಣೆ ಪತ್ರದ ಅಂಕಣ ನಂಬರ 12 ರಲ್ಲಿ ನಮೂದು ಮಾಡಿದ ಆರೋಪಿತರು ಏಕೋದ್ದೇಶದಿಂದ ಅಕ್ರಮಕೂಟ ರಚಿಸಿಕೊಂಡು ದಿನಾಂಕ 23/04/2023 ರಂದು ಮುಂಜಾನೆ 10-35 ಗಂಟೆಗೆ ದೋಷಾರೋಪಣೆ ಪತ್ರದ ಅಂಕಣ ನಂಬರ 12 ರಲ್ಲಿ ನಮೂದು ಮಾಡಿದ ಆರೋಪಿತರು ಏಕೋದ್ದೇಶದಿಂದ ಅಕ್ರಮ ಕೂಟ ರಚಿಸಿಕೊಂಡು ಬಸವೇಶ್ವರ ಜಯಂತಿ ಪ್ರಯುಕ್ತ ಬಸವೇಶ್ವರ ಪುತ್ರಳಿಗೆ



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ಮಾಲಾಪರ್ಣೆ ಮಾಡುವ ನೆಪದಲ್ಲಿ ಬಿಜೆಪಿ ಧ್ವಜ, ಬಿಜೆಪಿ ಚಿಹ್ನೆ ಇರುವ ಶಾಲು ಹಾಗೂ
ಟೋಪಿ ಹಾಕಿಕೊಂಡು ಸಾರ್ವಜನಿಕರಿಂದ ಮತ ಸೆಳೆಯುವ ಉದ್ದೇಶದಿಂದ ಚುನಾವಣಾ
ಅಧಿಕಾರಿಗಳಿಂದ ಅನುಮತಿ ಪಡೆಯದೆ ಸಾರ್ವಜನಿಕ ಸಂಚಾರಕ್ಕೆ ಅಡೆತಡೆ ಮಾಡಿ,
ಚುನಾವಣಾ ನೀತಿ ಸಂಹಿತೆಯನ್ನು ಉಲ್ಲಂಘನೆ ಮಾಡಿದ ಅಪರಾಧ.

ಕಲಂ: 341, 171(ಎಫ್) ಸಹಕಲಂ: 34 ಐಪಿಸಿ ಮತ್ತು ಕಲಂ 123(2) ಆರ್‌ಪಿ ಕಾಯ್ದೆ
1950."

The charge sheet is filed for offences punishable under Sections
341, 171(F) read with Section 34 of the IPC and Section 123(2)
of the Representation of the People Act, 1950. The concerned
Court takes cognizance of the said offences. The order taking
cognizance reads as follows:

"ORDER

Cognizance is taken of the offences punishable
under Section 341 and 171(F) R/w Sec. 34 of the Indian
Penal Code, 1860 ('the IPC' for short) against accused
No.1 to 3.

Office is directed to register this case as CC in
Register No.III and issue summons to the accused No.1
to 3, returnable by:09-11-2023

Sd/-
11.09.2023
(Preeth.J)
XLII Addl/CMM

(Spl. Court for trial of cases filed
against sitting as well as former
MPs/MLAs, triable by the
Magistrate in the State of
Karnataka)"



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Therefore, the petitioners are now sought to be proceeded against for the offences punishable under Sections 341 and 171F read with Section 34 of the IPC.

8. Insofar as the offence under Section 341 of the IPC is concerned, it requires ingredients under Section 339 of the IPC to be present. The Apex Court in the case of **KEKI HORMUSJI GHARDA v. MEHERVAN RUSTOM IRANI**¹ interprets Section 341 of the IPC and observes as follows:

" "

12. "Wrongful restraint" has been defined under Section 339 IPC in the following words:

"339.Wrongful restraint.—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section."

**The essential ingredients of the
aforementioned provision are:**

- (1) Accused obstructs voluntarily;**
- (2) The victim is prevented from proceeding
in any direction;**

¹ (2009) 6 SCC 475



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(3) Such victim has every right to proceed in that direction.

13. Section 341 IPC provides that:

"341. Punishment for wrongful restraint.—

Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both."

14. The word "voluntary" is significant. It connotes that obstruction should be direct. The obstructions must be a restriction on the normal movement of a person. It should be a physical one. They should have common intention to cause obstruction."

(Emphasis supplied)

For an offence to become punishable under Section 341 of the IPC, the ingredients as obtaining under Section 339 are necessarily to be present. Section 339 of the IPC mandates that a person should be stopped by the accused, by use of criminal force from all sides. There is nobody here who has been stopped particularly by these petitioners. The allegation is due to the act of these petitioners which resulted in a block of traffic. This cannot by any stretch of imagination become an offence under Section 341 of the IPC, as there is no wrongful restraint of any person in the case at hand. Therefore, the cognizance for the said offence is loosely taken by the concerned Court against these petitioners.



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9 What remains is the offence under Section 171F of the IPC, which reads as follows:

"171F. Punishment for undue influence or personation at an election.—

Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both."

(Emphasis supplied)

Section 171F of the IPC has its ingredients in Section 171C & Section 171D of the IPC. It deals with impersonation and undue influence during the elections.

10. This Court in the case of **K S ESHWARAPPA v. STATE OF KARNATAKA**² while interpreting Section 171F of the IPC, observes as follows:

" "

7. The incident that led to registration of crime, is as narrated hereinabove, and would not require any reiteration,

.....

Section 171F punishes those who would commit the offence of undue influence or personation at an

² W.P.No.26669 of 2023 disposed on 17.07.2026



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election with imprisonment, which may extend to a term of one year. Section 171F requires two ingredients to be present viz., undue influence or personation at an election. Undue influence and personation, are defined under Sections 171C and 171D. They read as follows:

"171-C. Undue influence at elections.—

(1) Who ever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171-D. Personation at elections.—

Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:

Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force insofar as he votes as a proxy for such elector."



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Whoever would voluntarily interfere or attempt to interfere with the free exercise of any electoral right commits the offence of undue influence and whoever at an election applies for a voting paper or votes in the name of other person, living or dead is said to be guilty of offence of personation in the elections. What is laid against the petitioner is Section 171F of the IPC. If the complaint is considered on the touchstone of the contents of Sections 171C, 171D and 171F, what would unmistakably emerge, is a reckless registration of crime and a loosely laid offence."

(Emphasis supplied)

This Court in the afore-quoted judgment held that an offence under Section 171F on the IPC is limited to instances of voluntary interference as defined under Section 171C of the IPC or application for a voting paper or votes in the name of other persons as defined under Section 171D of the IPC. Therefore, the garlanding of a statue of Basaveshwara by any of the party workers would not amount to undue influence under Section 171F of the IPC over any of the voters and the said offence is loosely laid and cognizance is loosely taken by the concerned Court against these petitioners.

11. In the light of the aforesaid reasons, where the ingredients of the offences are not even met against these petitioners, permitting further trial on the allegations made in



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the complaint would become an abuse of the process of the law and result in miscarriage of justice.

12. For the aforesaid reasons, the following:

ORDER

- (i) The criminal petition is **allowed**.
- (ii) The proceedings in C.C.No.23346/2023 pending on the file of 42nd A.C.M.M., Bengaluru stands quashed.

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

JY
List No.: 1 Sl No.: 26