



CNR: KAHC010441692019

NC: 2026:KHC:42503
CRL.P No. 7310 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 11TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
CRIMINAL PETITION NO. 7310 OF 2019

BETWEEN:

- 1 . SMT.R.PADMAVATHI
W/O L.N. SANJEEV KUMAR
AGED ABOUT 39 YEARS
R/O LAKKAVALLI,
TARIKERE TALUK - 577 128.
- 2 . SRI V. RANGANATHAN
S/O LATE VENKACHALAM,
AGED ABOUT 65 YEARS
R/O NO.171/A BLOCK,
VENKATESHWARA NILAYA,
GOPALA GOWD EXTENSION,
SHIVAMOGGA - 577 205.
- 3 . SRI R.RAMESH
S/O B.RANGANATHAN
AGED ABOUT 38 YEARS
R/O NO.171/A BLOCK
VENKATESHWARA NILAYA,
GOPALA GOWD EXTENSION,
SHIVAMOGGA - 577 205.
- 4 . SRI L N SANJEEV KUMAR
S/O LATE NEELAKANTA
AGED ABOUT 47 YEARS
R/O MIDDLE SCHOOL ROAD,
LAKKAVALLI, TARIKERE TALUK - 577 128.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

...PETITIONERS

[BY SRI VIJAYA KUMAR K., ADVOCATE (PH)]



CNR: KAHC010441692019

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CRL.P No. 7310 of 2019

AND:

- 1 . STATE BY LAKKAVALLI
POLICE STATION,
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT,
BANGALORE - 560 001.
- 2 . SRI RAMESH L N
S/O L S NAGARAJ
AGED ABOUT 47 YEARS
TM ROAD,
LAKKAVALLI VILLAGE,
TARIKERE TALUK - 577 128.

...RESPONDENTS

[BY SMT.SOWMYA R., HCGP FOR R1 (PH);
SRI AJAY KUMAR M., ADVOCATE FOR
SRI M.RUDRAIAH, ADVOCATE FOR R2]

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO
QUASH ORDER DATED 02.07.2019 TAKING COGNIZANCE
PASSED BY LEARNED ADDITIONAL CIVIL JUDGE AND JMFC,
TARIKERE IN CRIME NO.101/2016 (PCR NO.36/2016) FIR
DATED 18.08.2016 REGISTERED BY 1st RESPONDENT AND
COMPLAINT DATED 30.06.2016 FILED BY 2nd RESPONDENT.

THIS PETITION IS COMING ON FOR *Dictating Orders*,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



CNR: KAHC010441692019

ORAL ORDER

Challenging order dated 02.07.2019 and entire proceedings in PCR no.36/2016 on file of Additional Civil Judge and JMFC., Tarikere for offences punishable under Sections 466, 468, 473, 474, 476 read with Section 34 of Indian Penal Code, 1860 (**IPC**).

2. Sri Vijaya Kumar K. learned counsel for petitioners submitted, petitioners were accused no.1 to 4 (**petitioners**) in complaint dated 30.06.2016 filed by respondent no.2 (**complainant**) stating that he was resident of Lakkavalli. That his wife - Smt.Sujatha BH belonged to Kuruba Community classified as BCM (A) category. Therefore, she obtained certificate issued by Tahsildar, Tarikere and contested Election for post of Member of Taluk Panchayat from Lakkavalli constituency reserved for BCM (A) Women Category. But lost Election to accused no.1.

3. It was stated that accused no.2 to 4 were father, brother and husband of accused no.1 and belonged to Modaliyar caste classified under General Category. But with malafide intention of enabling accused no.1 to contest Election



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CNR: KAHC010441692019

from Lakkavalli reserved constituency, accused no.4 colluded with accused no.2 and 3 created false documents showing accused no.2 as belonging to Agamudi community notified as BCM (A) caste and laid down foundation for obtaining false certificate by accused no.1. And though accused no.2 was resident of Shivamogga since fifty years, he obtained 'Hindu Agamudi' caste certificate from Deputy Tahsildar, Chetpet, Polur Taluk, Tiruvannamalai District, Tamil Nadu suppressing his caste in school records as Modaliyar. Thus, even when there was no basis for claiming Agamudi caste, accused no.1 and 3 secured caste certificates from Tahsildar, Shivamogga based on forged documents. And as contesting Election from reserved constituency based on false caste certificate was punishable offence, complainant initially approached Circle Inspector of Police, Lakkavalli, to lodge complaint. As Police refused to receive and register complaint, he filed private complaint i.e. PCR no.36/2016 on 30.06.2016 before Addl. Civil Judge and JMFC, Tarikere, producing school certificate of accused no.1 showing her caste as Modaliyar.



CNR: KAHC010441692019

4. As per direction of Court, FIR in Crime no.101/2016 was registered by Lakkavalli Police Station on 18.08.2016. After investigation 'B' Report was filed on 28.11.2016, to which complainant filed protest petition. Thereafter, sworn statement was recorded and based on same cognizance of offences punishable under Sections 466, 468, 473, 474, 476 read with Section 34 of IPC was taken against accused and ordered for issuance of process. Aggrieved, this petition was filed.

5. It was submitted non-filing of affidavit along with private complaint mandated in **Priyanka Srivastava v. State of UP**, reported in **(2015) 6 SCC 287**, was fatal. Likewise, due to non-exhaustion of remedies under Sections 154 (1) and 154 (3) of Code of Criminal Procedure, 1973 (**CrPC**) prior to approaching Magistrate. Further, absence of judicious order referring to Complaint and 'B' Report after it is filed as well as prior to taking cognizance of offences against accused after rejection of 'B' Report as per procedure laid down by this Court in case of **Dr.Ravikumar v. KMC Vasantha and Anr.**, reported in **ILR 2018 KAR 1725** was also fatal.



CNR: KAHC010441692019

6. In addition, it was contended that complainant lacked *locus standi* to initiate criminal proceedings especially after election petition in EP no.1/2016 filed by his wife was dismissed on limitation on 01.03.2018 and same would amount to abuse of process of law. Relying upon ratio laid down by Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**, reported in **1992 SCC Suppl. (1) 335**, prayed for quashing of proceedings.

7. He also relied on decision in **Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors.**, reported in **(1988) 1 SCC 692** to contend that criminal proceedings were liable for quashing at initial stage, if uncontroverted allegations in complaint do not *prima facie* constitute offence. It was further submitted, criminal proceedings cannot be permitted to be resorted to oblique motives, as done in instant case after dismissal of Election Petition.

8. Apart from above, it was submitted assailing caste certificate issued to accused no.1, Appeal no.1/2016-17 was



CNR: KAHC010441692019

filed before Assistant Commissioner. Challenging jurisdiction of authorities under provisions of Karnataka Scheduled Caste/Scheduled Tribes and Other Backward Classes (Reservation of Appointment, etc.) Act, 1990, (**Act**) to decide validity of caste certificate issued for purposes of Election, accused no.1 filed WP no.15693/2017 before this Court. Referring to decision in case of **Chikkanna v. District Social Welfare Officer** (WP no.13173/2008 disposed of on 23.01.2009), petition was allowed on 28.11.2025 holding Appeal before AC was without jurisdiction.

9. Referring to ratio laid down by Hon'ble Supreme Court in case of **Kumari Madhuri Patil v. Addl. Commissioner**, reported in **(1994) 6 SCC 241**, it was submitted without caste certificate issued being held as false and cancelled, initiation of criminal prosecution would be abuse of process, prayed for allowing petition. It was contended even when either complainant or his wife filed objections against nomination filed by accused no.1. And as Tahsildar had confirmed caste certificate, intention of complainant to defame accused no.1 was evident.



CNR: KAHC010441692019

10. Relying on decision of Hon'ble Supreme Court in **Mohammed Ibrahim v. State of Bihar**, reported in **(2009) 8 SCC 751**, it was submitted held that unless accused was shown to have intentionally made a false document, offence of forgery was not attracted. In instant case, there is no material to show that accused have forged document. And in **Devendra v. State of UP**, reported in **(2009) 7 SCC 495**, it was held that for 'forgery' under Section 463 of IPC, fraudulent intent to cause damage was required to be established from inception, which was absent in instant case. In view of above, essential ingredients of offences punishable under Sections 466, 468, 473, 474, 476 read with Section 34 of IPC were not established, continuation of proceedings would amount to abuse of process and prayed for allowing petition.

11. Smt.Sowmya R., learned HCGP for respondent no.1 - State opposed petition. It was submitted that after following entire procedure, investigation was completed, all records pertaining to caste certificate, order of Tahsildar etc. collected and charge sheet filed. Since prosecution material corroborated



CNR: KAHC010441692019

allegations made in complaint, invocation of offences punishable under Sections 466, 468, 473, 474, 476 read with Section 34 of IPC was justified. Truthfulness of allegations was matter for trial and prayed for dismissal of petition.

12. Sri Ajay Kumar M learned counsel for complainant also opposed petition. Insofar as non-filing of affidavit of complainant and non-compliance with Section 154 (3) of CrPC, it was submitted in his order dated 27.09.2019, learned Magistrate had stated that sworn statement of complainant was recorded and documents marked as Ex.P1 to Ex.P6. Consequently, non-compliance would not be fatal. In support of said proposition, relied on decision of Hon'ble Supreme Court in **Anurag Bhatnagar v. State (NCT of Delhi)**, reported in **2025 SCC OnLine SC 1514**, wherein it was held non-filing of affidavit was non-fatal. In instant case, accused did not challenge FIR at initial stage and allowed investigation to conclude and 'B' Final Report was filed. At this stage, challenge on ground of procedural compliance would not be available. It was submitted that whether caste mentioned in school records



CNR: KAHC010441692019

NC: 2026:KHC:42503
CRL.P No. 7310 of 2019

and certificate produced during election were different would be matter for trial and prayed for dismissal of petition.

13. Heard learned counsel and perused material on record.

14. This is petition is by accused challenging order by learned Magistrate taking cognizance and issuing process without passing orders on 'B' Report filed by Police.

15. Main grounds urged are about non-filing of affidavit of complainant and non-exhaustion of remedy under Section 154 (1) and (3) of CrPC mandated by Hon'ble Supreme Court in **Priyanka Srivastava's** case (*supra*), prior to approaching Magistrate Court as well as failure to pass order on 'B' report and on ground that complainant was husband of defeated candidate in an election wherein accused no.1 had contested and declared elected from a reserved constituency based on a caste certificate obtained on forged documents.

16. There is no dispute about proposition that requirement of filing affidavit of complainant along with private



CNR: KAHC010441692019

complaint is mandatory and non-compliance fatal. Requirement as held mandatory in **Priyanka Srivastava's** case (*supra*) is reiterated in **Ranjit Singh Bath v. State (UT of Chandigarh)**, reported in **2025 SCC OnLine SC 1479**. Though in **SN Vijayalakshmi v. State of Karnataka**, reported in **2025 SCC OnLine SC 1575**, it is held curable, same is clarified to be prior to any substantive order passed on complaint by learned Magistrate.

17. Indisputably order impugned is substantive in nature. Same is sought to be diluted by reference to observations of Apex Court in **Anurag Bhatnagar's** case (*supra*), it is seen that same were made in facts and circumstances of that case as noted in paras - 43 as well as 59.

18. Since violation is established, continuation of proceedings would be illegal. Consequently, petition would succeed on said ground.

19. Even otherwise, it is seen that on filing of 'B' report, as laid down by this Court in **Dr.Ravikumar's** case (*supra*), Court has to look into report to ascertain whether investigation



by Police is proper and whether further investigation is required. If it is of opinion that 'B' report makes out a cognizable case, it has to record its opinion under Section 204 of CrPC and take cognizance against accused. If not, it has to pass an express order referring to contents of 'B' report to reject it. After rejection, it has to look into Complaint or Protest Petition to ascertain whether allegations made therein disclose any offence. If not to provide opportunity to complainant for recording sworn statement and production of material in support of complaint. And on consideration of material to take cognizance by passing reasoned order. Even after taking cognizance, if Court is of opinion that investigation into veracity of allegations requires investigation, to direct such investigation and after receipt of report look into entire material to either dismiss complaint/protest petition, if there are no grounds made out to proceed or issue summons to accused, if sufficient grounds exist to proceed.

20. Contents of impugned order would reveal failure to comply with procedure laid down in **Dr.Ravikumar's** case (*supra*) warranting interference. Yet another ground urged is



NC: 2026:KHC:42503
CRL.P No. 7310 of 2019

that initiation of criminal prosecution even prior to cancellation of alleged fake or false caste certificate would be illegal as held in **Kumar Madhuri Patil's** case (*supra*). Perusal of said decision indeed reveals that on conclusion of an enquiry regarding validity of caste certificate and finding about same being fake or false being recorded, initiation of prosecution is contemplated. In instant case, however proceedings appear initiated prior to any such finding warranting interference on that count as well. For aforesaid reasons, petition succeed.

21. Consequently, petition is **allowed**, proceedings in PCR no.36/2016 on file of Additional Civil Judge and JMFC., Tarikere for offences punishable under Sections 466, 468, 473, 474, 476 read with 34 of IPC stands **quashed**.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 44