



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 61 OF 2025 (482(Cr.PC) /
528(BNSS))

BETWEEN:

SRI IMRAN PASHA @ IMRAN
S/O ARIF PASHA,
AGED ABOUT 44 YEARS,
NO 18/1, 11TH CROSS,
HOSAHALLI MAIN ROAD,
PADARAYANAPURA BANGALORE - 560026

...PETITIONER

(BY SRI. V. LAKSHMINARAYAN., ADVOCATE A/W
SRI. GOVARDHAN REDDY J.S. ADVOCATE FOR
SRI. KARTHIK S. REDDY., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY JJR NAGAR P S
REP BY SPP
HIGH COURT OF KARNATAKA
BENGALURU - 560001

2. SRI.B.K. ALTHAF KHAN
S/O LATE BASHA KHAN,
AGED ABOUT 53 YEARS,
RESIDING AT NO 116,
1ST CROSS, 3RD MAIN,
JJR NAGAR,
BANGALORE - 560026

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. M.P. VISHWANATH., ADVOCATE FOR R2)



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE CHARGESHEET IN CC NO. 2761/2018 ARISING OUT OF CR NO. 14/2017 IN PCR NO.10352/2016 FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTION 181, 191, 193 OF IPC AND SECTION 125A OF THE REPRESENTATION OF PEOPLE ACT 1951 FILED BY THE RESPONDENT NO.1 JJR NAGAR PS, PENDING ON THE FILE OF XLVI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The Petitioner is before this court seeking for the following reliefs:

a) Quash the chargesheet in CC No.2761/2018 arising out of Cr.No.14/2017 in PCR No.10352/2016 for the alleged offences punishable under section 181, 191, 193 of IPC and Section 125-A of the Representation of People Act 1951 filed by the Respondent No.1 JJR Nagar P.S, pending on the XLVI Additional Chief Metropolitan Magistrate, Bangalore in the interest of justice and equity.

b) Grant such other reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the case in the interest of justice and equity.

2. Respondent No.2 filed a private complaint under Section 200 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in PCR No.10352/2016. Pursuant thereto, the learned Magistrate, by order



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

dated 18.01.2017, referred the matter under Section 156(3) of the Cr.P.C. to the jurisdictional Assistant Commissioner of Police, J.J. Nagar Police Station, Bengaluru. In furtherance thereof, Crime No.14/2017 came to be registered. Upon completion of investigation, a charge sheet was laid on 03.01.2018, which came to be registered as C.C. No.2761/2018. It is challenging the said proceedings that the petitioner has approached this Court by filing the present petition on 09.12.2024.

3. Sri V. Lakshminarayana, learned Senior Counsel appearing for the petitioner, submits that cognisance has been taken for the offences punishable under Sections 181, 191 and 193 of the IPC and Section 125A of the Representation of the People Act, 1951 (for short, "the **R.P. Act**").
4. Insofar as the offences under Sections 181 and 191 of the IPC are concerned, learned Senior Counsel submits that Section 195(1)(a)(i) of the Cr.P.C. places an express restriction on the power of the Court to take cognisance of offences punishable under Sections 172 to 188, both inclusive, of the IPC. Cognisance of such offences, according to him, can be taken only upon a complaint in writing by the



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

public servant concerned or by some other public servant to whom he is administratively subordinate.

5. Insofar as the offence under Section 193 of the IPC is concerned, learned Senior Counsel submits that Section 191 merely defines the offence of giving false evidence, while Section 193 prescribes the punishment therefor. Consequently, the bar contained in Section 195(1)(b)(i) of the Cr.P.C. is attracted. Under the said provision, cognisance of an offence punishable under Section 193, among the other offences enumerated therein, can be taken only upon a complaint in writing by the concerned Court or by such officer of the Court as may be authorised by it in writing in that behalf.
6. Insofar as the offences alleged under Section 125A of the 'R.P.Act', his submission is that the said aspect has been dealt with by a Co-ordinate Bench of this Court in the case of **Smt.Manjula S. @ Manjula Limbavali vs. Sri Nagesh T. @ Nallurhalli Nagesh**,¹ more particularly Paras 12 and 13 thereof which are reproduced hereunder for easy reference:

¹ CrI.P No.2756/2024 c/w WP No.7458/2024 dated 07.03.2025



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

"12. In view of the above decision of the Supreme Court, the complaint filed by the complainant ought to have been returned by the Magistrate. 13. Yet another ground on which the Petitioner seeks to quash the complaint is that the learned Magistrate without application of the mind about the disclosure of offences as alleged in the complaint referred the complaint under Section 156(3) of Cr.P.C. to CPI, Haliyal. It is suffice to say that the order of the Magistrate directing investigation under Section 156(3) of Cr.P.C. without application of mind to allegations made in the complaint is without jurisdiction. In (2008) 5 SCC 668 in the matter of Maksud Saiyed v. State of Gujarat, the Supreme Court observed as under: 'Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of Cr.P.C. the Magistrate is required to apply his mind. Summoning of an accused in a criminal case is a serious matter. Criminal Law cannot be set into motion as a matter of course. The Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima-facie committed by any of the accused'"

7. By relying on Manjula S., learned Senior Counsel submits that the requirement contemplated under Section 195(1) of the Cr.P.C. would govern the initiation of proceedings in respect of the offences alleged in the present case. According to him, in respect of an offence punishable under Section 181 of the IPC, the complaint must emanate from the concerned public servant or a superior public servant



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

as contemplated under Section 195(1)(a)(i) of the Cr.P.C. In respect of offences falling within Section 195(1)(b)(i), including an offence punishable under Section 193 of the IPC, the complaint must emanate from the concerned Court or the officer authorised by such Court.

8. Insofar as Section 125A of the R.P. Act is concerned, learned Senior Counsel submits that, as held in **Manjula S.**, the Election Commission is the competent authority to initiate proceedings in respect of the said offence. It is therefore contended that a private individual, and particularly a political opponent of the petitioner, could not have set the criminal law in motion in respect of the offences alleged in the complaint.
9. His submission, therefore, is that the very initiation of the proceedings is contrary to the statutory scheme and the express bar contained in Section 195 of the Cr.P.C. and that, consequently, the criminal proceedings are liable to be quashed.
10. Per contra, learned counsel appearing for respondent No.2 would submit that respondent No.2 is a public-spirited individual who, upon becoming aware of the alleged offences, brought the same to the notice of



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

the competent Court. According to him, any citizen who becomes aware of the commission of an offence is entitled to bring such conduct to the notice of the criminal justice system, and respondent No.2 has merely set the criminal law in motion.

11. He would further submit that cognisance in the present matter was taken as far back as the year 2018, that the proceedings have progressed substantially and the matter has already been posted for recording of evidence. The petitioner, despite being aware of the proceedings, has approached this Court only in the year 2024, after a considerable lapse of time. On this ground, learned counsel submits that this Court ought not to interdict the proceedings at such a belated stage and that the petition is liable to be dismissed.
12. Learned counsel for Respondent No. 2 would firstly submit that Respondent No. 2, being a public-spirited individual, has brought to the notice of the Court the offences which have been committed by the Petitioner. Any citizen of the country can file such a complaint if the offence comes to his knowledge. Respondent no.2 has only set the criminal law into motion. His further submission is that cognisance has



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

been taken in the year 2018, the matter has been posted for recording of evidence, and it is a very belated stage that the Petitioner has approached this court and for that reason this court ought not to intercede in the matter.

13. Heard Sri.V.Lakshminarayan, learned Senior counsel appearing for the Petitioner, Smt.Rashmi Patel, learned HCGP for R1 and Sri.M.P.Vishwanath, learned counsel appearing for Respondent No.2 and perused papers.
14. The points that would arise for determination are:
 - i. **Whether a private citizen can file a private complaint for offences under Section 181, 191, 193 of the IPC and Section 125A of the RP Act?**
 - ii. **Whether in this case taking into consideration the fact that cognisance had been taken way back on 03.01.2018, would it be a fit case for this court to intervene at this stage after such length of time to quash the said criminal proceedings?**
 - iii. **What order?**



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

15. This Court answers the above points as follows:
16. **Answer to Point No. (i): Whether a private citizen can file a private complaint for offences under Section 181, 191, 193 of the IPC and Section 125A of the RP Act?**

16.1. Section 195 of the CrPC is reproduced hereunder for easy reference:

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—(1)
No Court shall take cognisance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive),



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), 1 [except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint: Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate: Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

16.2.A plain reading of the provision demonstrates that the legislature has consciously carved out certain offences from the ordinary rule



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

governing initiation of criminal proceedings. In respect of offences falling under Section 195(1)(a), the complaint must emanate from the public servant concerned or from a public servant to whom he is administratively subordinate.

16.3. In respect of offences falling under Section 195(1)(b), where the statutory conditions stipulated therein are satisfied, the complaint must emanate from the concerned Court or the officer authorised by it, or from a superior Court as contemplated by the provision.

16.4. The expression employed by the legislature is "No Court shall take cognisance". The embargo, therefore, goes to the very jurisdiction of the criminal Court to take cognisance of the offence. It is not a mere irregularity in the manner in which the complaint is presented. If the condition prescribed by Section 195 is not satisfied, the Magistrate cannot acquire jurisdiction to take cognisance merely because the allegations in the complaint otherwise disclose the ingredients of an offence.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

16.5. This distinction is important in the present case.

Respondent No.2 may have been entitled, as a citizen, to bring the alleged conduct to the notice of the competent authority. However, there is a material distinction between bringing information regarding an alleged offence to the notice of the authorities and instituting a prosecution which results in the Court taking cognisance of an offence for which the statute prescribes a particular mode of complaint.

16.6. The former does not necessarily suffer from any statutory prohibition. The latter is expressly controlled by Section 195 of the Cr.P.C. Therefore, the submission that every citizen is entitled to set the criminal law in motion cannot be applied in disregard of an express statutory restriction on the power of the Court to take cognisance.

16.7. Offence under Section 181 of the IPC:

Section 181 of the IPC falls within the range of offences specifically referred to in Section 195(1)(a)(i), which covers offences punishable under Sections 172 to 188 of the IPC. Consequently, the learned Magistrate could not



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



take cognisance of an offence punishable under Section 181 except upon a complaint in writing made by the public servant concerned or by another public servant to whom such public servant is administratively subordinate.

16.8. The requirement is therefore not that a public servant should merely have been examined as a witness, nor that the alleged false statement should relate to the functioning of a public office. The statutory requirement goes further: the complaint which forms the foundation for cognisance must itself emanate from the public servant contemplated under Section 195(1)(a)(i).

16.9. In the present case, there is no dispute that the proceedings originated from a private complaint filed by respondent No.2. There is no complaint in writing by the concerned public servant and there is also no complaint by any public servant administratively subordinate to or otherwise falling within the description contained in Section 195(1)(a)(i).

16.10. Thus, irrespective of the merits of the allegation under Section 181, the Magistrate could not



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

have taken cognisance of the said offence on the basis of the private complaint. The statutory bar operates at the threshold.

16.11. Offences under Sections 191 and 193 of the IPC: The position with regard to Sections 191 and 193 of the IPC requires a separate consideration. Section 191 defines the offence of giving false evidence. Section 193 prescribes the punishment for giving false evidence. Therefore, while the allegation may be described as one of giving false evidence under Section 191, the penal consequence flows from Section 193.

16.12. Section 195(1)(b)(i) specifically refers to offences punishable under Sections 193 to 196 of the IPC, among other offences, where such offence is alleged to have been committed in, or in relation to, any proceeding in any Court.

16.13. The use of the expression "in, or in relation to, any proceeding in any Court" is significant. The legislative purpose is to ensure that allegations concerning false evidence or similar offences having a direct nexus with judicial proceedings are not permitted to be converted into



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

independent criminal prosecutions at the instance of private parties without the concerned Court itself applying its mind to the matter.

16.14. Where a party to a proceeding believes that false evidence has been tendered before the Court, the statutory scheme requires the matter to be considered by the Court concerned and the prosecution, if warranted, to be initiated in the manner contemplated by Section 195. The object is to preserve the authority of the Court over proceedings before it and to prevent criminal prosecution being used by litigants as an additional weapon in the course of judicial proceedings.

16.15. In the present case, the allegations under Sections 191 and 193 relate to the proceedings before the Court. Consequently, the requirement contemplated under Section 195(1)(b)(i) is attracted. The complaint required for taking cognisance of the offence punishable under Section 193 must emanate from the concerned Court, an officer authorised by that Court, or a Court to which such Court is



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



subordinate, as contemplated under the provision.

16.16.No such complaint has been made in the present case. The learned Magistrate, therefore, could not have treated the private complaint of respondent No.2 as a substitute for the complaint contemplated under Section 195(1)(b)(i). The fact that respondent No.2 may allege that the petitioner had given false evidence does not confer upon respondent No.2 the statutory authority to institute a prosecution for the offence punishable under Section 193 where the alleged offence is one committed in or in relation to a proceeding in Court.

16.17.The bar under Section 195 is consequently attracted not because the allegation is necessarily false or because the complainant lacks bona fides, but because the legislature has prescribed a particular authority who must initiate the prosecution.

16.18. **Offence under Section 125A of the R.P. Act:** The next question concerns Section 125A of the Representation of the People Act, 1951.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

The petitioner relies upon the decision of the Co-ordinate Bench of this Court in **Manjula S.**

16.19. In the said decision, the Co-ordinate Bench has considered the statutory scheme governing initiation of proceedings in respect of Section 125A of the R.P. Act and has held that the complaint in respect of the offence is required to be instituted by the competent authority contemplated under the statute, namely, the Election Commission.

16.20. The said decision assumes significance for the present proceedings. Once the statute prescribes a particular authority for initiating prosecution, a private individual cannot, merely by describing himself as a public-spirited citizen, assume the statutory role assigned to such authority.

16.21. The submission of respondent No.2 that he has merely brought the alleged offence to the notice of the Court may explain his conduct in approaching the Court, but it does not answer the jurisdictional objection. The question is not whether respondent No.2 could bring the facts to the notice of an appropriate authority. The



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

question is whether his private complaint could itself constitute the legal foundation upon which the Magistrate could take cognisance of an offence for which the statute requires initiation by a specified authority.

16.22. In view of the principle laid down in **Manjula S.** (supra), the answer has to be in the negative.

16.23. **Effect of the statutory restrictions:** The common thread running through the provisions considered above is that the legislature has consciously placed restrictions upon the initiation of prosecution for certain categories of offences. These restrictions are intended to ensure that prosecution is not initiated indiscriminately by private parties in matters which concern the authority of public servants, the sanctity of judicial proceedings, or the statutory functioning of electoral authorities.

16.24. The restrictions cannot be diluted on the ground that the complainant claims to be acting in public interest. Public interest cannot override an express statutory condition governing the assumption of criminal jurisdiction. Equally, the passage of time or the subsequent progress of



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

the criminal proceedings cannot confer jurisdiction upon a Magistrate where the initial cognisance itself was prohibited by statute.

16.25. The objection raised by respondent No.2 that the proceedings have remained pending since 2018 and that the petitioner has approached this Court belatedly also does not answer the statutory objection. Delay may be relevant in considering the exercise of discretionary jurisdiction in an appropriate case. However, where the very competence of the Magistrate to take cognisance of the offence is questioned on the ground of an express statutory bar, the mere pendency of the proceedings cannot cure the absence of the condition precedent prescribed by law.

16.26. If the statute declares that "no Court shall take cognisance" except upon a complaint by a specified authority, the subsequent passage of time cannot convert an otherwise incompetent cognisance into a valid one.

16.27. Applying the aforesaid principles to the present case, three distinct statutory requirements emerge:



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

16.27.1. In respect of Section 181 of the IPC, the complaint must be in writing by the public servant concerned or by a public servant to whom he is administratively subordinate, as contemplated under Section 195(1)(a)(i) of the Cr.P.C. No such complaint is forthcoming.

16.27.2. In respect of the offence punishable under Section 193 of the IPC, where the alleged offence has been committed in or in relation to a proceeding in Court, the complaint must be made by the concerned Court, an officer authorised by that Court, or by a Court to which such Court is subordinate, as contemplated under Section 195(1)(b)(i). No such complaint has been made.

16.27.3. In respect of Section 125A of the R.P. Act, in view of the law declared by the Co-ordinate Bench in **Manjula S.** (supra), the prosecution cannot be founded upon a private complaint when the statute requires initiation by the



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

competent electoral authority. In the present case, no complaint has been instituted by the Election Commission.

16.28. Consequently, the learned Magistrate could not have taken cognisance of the aforesaid offences merely on the basis of the private complaint lodged by respondent No.2. The defect is not one which can be characterised as a mere irregularity in procedure. It goes to the root of the jurisdiction of the learned Magistrate to take cognisance of the offences in question.

16.29. The Court is conscious that the allegations made by respondent No.2 may be serious. However, seriousness of an allegation cannot dispense with a statutory condition precedent to the assumption of criminal jurisdiction. The Court is equally not called upon, at this stage, to adjudicate upon the truth or otherwise of the allegations. The issue is anterior to that enquiry: whether the law permitted the Magistrate to take cognisance of those allegations on the complaint presented by respondent No.2. On the statutory scheme



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

considered above, the answer is in the negative.

16.30. Accordingly, this Court answers Point No. (i) in favour of the petitioner, holding that the learned Magistrate could not have taken cognisance of the offence punishable under Section 181 of the IPC in the absence of a complaint by the public servant contemplated under Section 195(1)(a)(i) of the Cr.P.C.; could not have taken cognisance of the offence punishable under Section 193 of the IPC, in the circumstances attracting Section 195(1)(b)(i), in the absence of a complaint by the competent Court or authority contemplated thereunder; and could not have proceeded with the offence under Section 125A of the R.P. Act on the basis of the private complaint of respondent No.2, in view of the principle laid down in **Manjula S.** (supra).

17. **Answer to Point No.(ii): Whether, in this case, taking into consideration the fact that cognisance had been taken way back on 03.01.2018, it would be a fit case for this court**



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

to intervene at this stage, after such length of time, to quash the said criminal proceedings?

17.1. The submission of learned counsel appearing for respondent No.2 is that the petitioner has approached this Court after considerable delay. The order referring the complaint for investigation under Section 156(3) of the Cr.P.C. was passed on 18.01.2017, the charge sheet was laid on 03.01.2018, cognisance was taken on the same date, and the present petition came to be filed only on 09.12.2024. It is therefore contended that, having allowed the proceedings to continue for several years and having approached this Court at a highly belated stage, the petitioner ought not to be permitted to seek quashing of the proceedings at this juncture.

17.2. There can be no dispute with the proposition that delay in invoking the jurisdiction of this Court is a relevant circumstance while exercising jurisdiction under Section 482 of the Cr.P.C. The Court is ordinarily required to consider whether the accused, having acquiesced in the continuation of proceedings



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

for a considerable period, can nevertheless seek interference at a much later stage. The Court must also bear in mind the stage which the proceedings have reached and the prejudice, if any, that may be caused by bringing the prosecution to an end at a belated stage.

17.3. However, the consideration of delay cannot be divorced from the nature of the objection raised by the petitioner. The objection in the present case is not founded merely upon an appreciation of the evidence or upon a contention that the allegations are improbable. The objection goes to the very competence of the Magistrate to take cognisance of the offences in question in the manner in which cognisance came to be taken.

17.4. As held while answering Point No.(i), Section 195 of the Cr.P.C. creates a statutory restriction upon the power of the Court to take cognisance of the specified offences except upon a complaint made by the authority prescribed therein. Insofar as Section 181 of the IPC is concerned, the complaint must



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

emanate from the public servant concerned or from the public servant contemplated under Section 195(1)(a)(i). Insofar as the offence punishable under Section 193 of the IPC is concerned, where the statutory conditions under Section 195(1)(b)(i) are satisfied, the complaint must emanate from the concerned Court or the authority specified therein.

17.5. Therefore, the question is not merely whether the petitioner should have raised the objection in the year 2018. The question is whether the passage of time can validate a cognisance which the statute itself prohibited the Court from taking in the absence of the complaint contemplated under Section 195.

17.6. In the considered opinion of this Court, the answer has to be in the negative. A statutory bar governing the taking of cognisance does not cease to operate merely because the proceedings have remained pending for a considerable period. The fact that cognisance was taken on 03.01.2018 does not, by itself, validate the cognisance if the statutory



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

condition precedent for assuming jurisdiction was absent.

17.7. The subsequent passage of time cannot confer jurisdiction upon a Court which the statute has expressly withheld. Equally, the continuation of proceedings cannot be permitted to become a substitute for compliance with a mandatory statutory requirement.

17.8. There is another important aspect. The present proceedings have not culminated in a judgment of conviction or acquittal. The criminal case is admittedly still pending before the learned Magistrate. Consequently, this Court is not being called upon to unsettle a concluded criminal proceeding. What is sought to be examined is whether the pending prosecution, which continues to have legal consequences for the petitioner, can be permitted to proceed notwithstanding the statutory impediment considered while answering Point No.(i).

17.9. The mere fact that the proceedings have remained pending since 2018 does not render the statutory question academic. On the contrary, as long as the prosecution remains



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

pending, the legal validity of its continuation remains capable of consideration.

17.10. More importantly, the defect identified in the present case is not one which can be cured by the mere passage of time or by the examination of witnesses. If the statutory requirement under Section 195 is applicable, the absence of the complaint contemplated thereunder goes to the root of the jurisdiction to take cognisance. Recording evidence, permitting cross-examination and hearing arguments cannot cure such a foundational defect.

17.11. To permit the proceedings to continue merely because considerable time has elapsed would result in the parties and the Court undertaking a full-fledged trial in a prosecution which, on the legal issue already considered, could not have been instituted in the manner in which it was instituted.

17.12. The submission of respondent No.2 that the matter has reached an advanced stage, therefore, does not furnish a sufficient reason to permit the proceedings to continue. The



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

Court must balance the competing considerations. On the one hand is the delay of the petitioner in approaching this Court; on the other is the statutory mandate governing the assumption of criminal jurisdiction.

17.13. In the present case, the latter consideration assumes greater significance. The Court cannot disregard an express statutory restriction merely because the challenge to the proceedings has been brought belatedly.

17.14. It is also necessary to distinguish between delay which may defeat a discretionary claim based upon disputed facts and delay in raising a pure question of law concerning the jurisdiction of the criminal Court. In the present case, the principal issue does not require this Court to embark upon an appreciation of disputed evidence. The material facts necessary to decide the issue are undisputed: the nature of the complaint, the offences for which cognisance has been taken, the absence of a complaint by the authority contemplated under Section 195, and the fact that the proceedings continue to remain pending.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

17.15. The determination of the issue consequently involves the application of the statutory provision to the admitted procedural history of the case.

17.16. The petitioner may undoubtedly have been expected to approach the Court at an earlier point of time. The delay of nearly six years from the date of cognisance cannot be brushed aside as insignificant. However, delay by itself cannot be treated as conferring validity upon proceedings which are otherwise contrary to a mandatory statutory requirement.

17.17. The Court is therefore not overlooking the delay. The delay is acknowledged and considered, but it does not outweigh the jurisdictional consequence flowing from the absence of the complaint required under Section 195 of the Cr.P.C.

17.18. There is also no justification in requiring the petitioner to undergo the entire trial merely because he approached this Court belatedly. If the objection raised by the petitioner were one requiring appreciation of evidence, it may have been appropriate to leave the parties to the



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

trial. But where the question is whether the prosecution itself could have been initiated in the manner adopted, compelling the petitioner to undergo examination of witnesses, cross-examination and final arguments would serve no useful purpose.

17.19. Such a course would result in expenditure of further judicial time and would subject the petitioner to the continuation of criminal proceedings despite the statutory impediment which goes to the root of the prosecution.

17.20. The fact that the matter has remained pending for several years also does not alter the substantive legal position declared while answering Point No.(i). The applicable law does not become inapplicable merely because the prosecution has remained pending. If, on the date on which this Court considers the petition, the statutory bar under Section 195 continues to apply to the proceedings, this Court is required to give effect to that statutory mandate.

17.21. The Court is therefore concerned not merely with whether the Magistrate had taken



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

cognisance in the year 2018, but whether the criminal prosecution can continue to be maintained in the face of the statutory prohibition which governs the cognisance of the offences.

17.22. In the present case, the answer to that question is in the negative. As already held, the private complaint filed by respondent No.2 could not have constituted the foundation for taking cognisance of the offences in respect of which Section 195 of the Cr.P.C. prescribes a particular mode of complaint. The subsequent progress of the proceedings cannot cure that defect.

17.23. If the matter were to be permitted to continue, the inevitable consequence would be that the trial Court would proceed to record evidence and ultimately adjudicate upon a prosecution whose initiation itself suffers from the statutory defect noticed above. Such a course would neither advance the cause of justice nor serve the purpose underlying Section 195 of the Cr.P.C.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

17.24. This Court is also mindful that the power under Section 482 of the Cr.P.C. is extraordinary in nature and is required to be exercised sparingly. However, the very object of the provision is to prevent abuse of the process of any Court and to secure the ends of justice. Where continuation of a criminal proceeding would result in compelling an accused to face a prosecution which is barred by an express statutory provision, exercise of the inherent jurisdiction is justified notwithstanding the delay in approaching the Court.

17.25. Therefore, while the delay on the part of the petitioner in approaching this Court is considerable and cannot be condoned as a matter of course, such delay does not foreclose consideration of the present challenge. The Court has examined the delay as a relevant discretionary factor and, having regard to the nature of the defect, finds that it cannot be permitted to override the statutory mandate.

17.26. The proceedings are still pending; the issue raised is substantially one of law; the defect goes to the root of the jurisdiction to take



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

cognisance; and the defect cannot be cured merely by permitting the trial to proceed.

17.27. Accordingly, Point No.(ii) is answered in favour of the petitioner, holding that although the petitioner has approached this Court after considerable delay, such delay cannot validate or sustain a criminal proceeding which, for the reasons recorded while answering Point No.(i), could not have been instituted or cognisance taken in the manner prescribed by law. The pendency of the proceedings since 2018 is therefore not a bar to this Court exercising its jurisdiction under Section 482 of the Cr.P.C. to prevent continuation of a prosecution which is legally unsustainable.

18. **Answer to Point No. (iii): What Order?**

18.1. In view of the answers to Points No. 1 and 2, this court passes the following:

ORDER

i. The criminal petition is allowed.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified



CNR: KAHC010719832024

NC: 2026:KHC:52337
CRL.P No. 61 of 2025

- ii. The charge sheet in C.C. No.2761/2018 arising out of Crime No.14/2017 in PCR No.10352/2016 pending on the file of XLVI Addl. Chief Metropolitan Magistrate, Bangalore, is quashed.
- iii. Liberty is reserved to Respondent No.2 to avail such other remedies as may be available under law.



Digitally Signed By:
SURAJ GOVINDA RAJ
30/09/2026, 17:23, Bengaluru
Verified

(SURAJ GOVINDARAJ)
JUDGE

PRS, LN
List No.: 2 SI No.: 3