



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 5<sup>TH</sup> DAY OF MARCH, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV**

**WRIT PETITION NO. 36777 OF 2025 (GM-RES)**

**BETWEEN:**

1. SMT. C. DEVIKA  
W/O K. MURTHY,  
AGED ABOUT 49 YEARS,  
R/AT NO. 116, J.C. ROAD,  
NARAYAN SWAMY GARDEN,  
BENGALURU NORTH,  
BENGALURU - 560002.
2. SMT. PALLAVI G.  
W/O T.SRINIVAS.  
R/AT NO. C-444,  
SWAMY VIVEKANANDA EXTENTION,  
GADIKOPPA, SHIVAMOGGA - 577201.
3. SRI. ABHISHEK M.,  
AGED ABOUT 28 YEARS,  
S/O MOHAN H.,  
R/AT NO.16, G B LANE,  
1<sup>ST</sup> CROSS, PRESIDENCY SCHOOL,  
COTTON PET, BANGALORE -560053.
4. SRI. SANTOSH V.  
S/O VELU S.,  
AGED ABOUT 35 YEARS,  
R/AT NO.111, 7<sup>TH</sup> CROSS,  
7<sup>TH</sup> MAIN ROAD, SRIRAMPURAM,  
BANGALORE-560021.

Digitally signed  
by VIJAYA P  
Location: HIGH  
COURT OF  
KARNATAKA



5. SMT. SHARADA P. Y.,  
AGED ABOUT 41 YEARS,  
W/O VENKAESHAIAH G. R.,  
R/AT NO. 32, SHIG D, 2<sup>ND</sup> BLOCK,  
YELAHANKA NEW TOWN,  
BANGALORE -560064.
6. SRI. SHANMUKH SATYAPPA SHIVALLI  
S/O SATYAPPA SHIVALLI,  
AGED ABOUT 52 YEARS,  
R/AT KURABAGERI, YERAGUPPI,  
KUNDAGOL, DHARWAD-580023.
7. SRI. S. CHETAN  
S/O N. SRIRAMA REDDY,  
AGED ABOUT 38 YEARS,  
R/AT NO. 1467, 3<sup>RD</sup> MAIN,  
2<sup>ND</sup> CROSS, GANDHI NAGAR,  
YELAHANKA BANGALORE -560064.
8. SRI. VIJAYA  
S/O VEERANNA,  
AGED ABOUT 48 YEARS OLD,  
R/AT NEAR POTHAPPA KATTE  
WARD NO.-6 SANGANAKAL,  
SANGANAKAL HAGARIBOMMANAHALLI,  
BELLARY 583103.
9. SRI. K.RIAZ  
C/O K. MAHAMMAD HANIF,  
AGED ABOUT 39 YEARS,  
R/AT NO.205, 9<sup>TH</sup> WARD,  
TEKKARGERI, HARAPANAHALLI,  
DAVANGERE -583131.



10. SRI. DARSHAN DUMMANAVAR  
S/O VEERABASAPPA,  
AGED ABOUT 21 YEARS,  
R/AT NIDAGUNDI,  
SUB DISTRICT : RON,  
GADAG -582114.

...PETITIONERS

(BY SMT. SARAH VERONICA.,ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
THROUGH POLICE INSPECTOR,  
WILSON GARDEN POLICE STATION,  
BENGALURU CITY - 560027.
2. THE STATION HOUSE OFFICER,  
WILSON GARDEN POLICE STATION,  
REP. BY THE STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
BENGALURU 560001.

...RESPONDENTS

(BY SRI. B.N. JAGADEESHA, ADDL. SPP FOR R1 AND R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT AND QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.25189 OF 2024 PENDING ON THE FILE OF XLII ACJM, BENGALURU, INCLUDING THE ORDER OF COGNIZANCE DATED 25-07-2024, AND COMPLAINT REGISTERED BY THE RESPONDENT POLICE DATED 22/06/2022 FOR ALLEGED OFFENCES PUNISHABLE UNDERSECTIONS 188, 290 IPC AND SECTION 103 OF KARNATAKA POLICE ACT IN THE INTEREST OF JUSTICE (PRODUCED AT ANNEXURES A I.E. ORDER SHEET, B I.E., COMPLAINT AND C I.E., WARRANTS ISSUED BY THE 42<sup>ND</sup> ADDL. CHIEF JUDICIAL MAGISTRATE TO THE IO AGAINST THE



SAID PETITIONERS WHICH ARE MARKED AS C SERIES WHEREIN C1, C3, C4, C7 AND C8 DATED 10.10.2024, C2, C6 AND C9 DATED 12.01.2026 AND C5 AND 10 DATED 29.08.2024 RESPECTIVELY).

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

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

**ORAL ORDER**

The petitioners have sought for setting aside of the proceedings in C.C.No.25189/2024 pending on the file of XLII Additional Chief Judicial Magistrate, Bengaluru and also sought for setting aside the order of cognizance dated 25.07.2024 as well as the complaint registered by the respondent - police dated 22.06.2022 stated to have been filed with respect to the alleged offences under Sections 188, 290 of the Indian Penal Code, 1860 (for short 'IPC') and Section 103 of the Karnataka Police Act, 1961 (for short 'KP Act').

2. The brief facts made out are that the petitioners and other party workers have gathered and participated in protest and procession from Crematorium Circle to BMTC



Depot, K.H.Road, Wilson Garden, to oppose alleged misuse of the Enforcement Directorate by the then Central Government.

3. It is asserted that though the protest was carried out in a democratic manner, however, complaint came to be filed before the Wilson Garden Police Station. It is submitted that subsequently a complaint came to be filed before the Court of the Magistrate by the Police Inspector, Wilson Garden Police Station. It is further submitted that such complaint before the Magistrate was on the premise that the accused had violated the order of the Government, which has prohibited public protest except at the Freedom Park.

4. Learned counsel for the petitioners submits that the complaint ought to be filed by the officer who has promulgated the order of prohibition. It is further submitted that the Police Inspector of Wilson Garden Police Station could not be a competent officer to file a



complaint. Reliance is placed on the procedure prescribed under Section 195 of Cr.P.C., insofar as offences including Section 188 of IPC. It is submitted that such complaint must be made by the authority which has promulgated the order of prohibition or an authority superior to such authority. It is further submitted that insofar as the co-accused is concerned, this Court has granted relief and on parity, the petitioners may also be granted the same relief as made out in the order passed in W.P.No.23730/2025.

5. Sri. B.N. Jagadeesha, learned Additional State Public Prosecutor submits that an interpretation to the effect that complaint as regards offence under Section 188 of IPC in terms of Section 195 of Cr.P.C., if required to be filed by the authority or officer who has passed the order of prohibition, such interpretation would make it practically impossible for any complaint to be filed as regards such of the offences as contemplated under Section 195(1)(a)(i). It is further submitted that the authority being a high-



ranking authority who promulgates orders of prohibition, must be given the discretion to delegate the filing of complaint to a Sub-ordinate Officer.

6. Heard both sides. Perused the order passed in W.P.No.23730/2025.

7. In the present case, it is not in dispute that the main offence is one under Section 188 of IPC. The other offences laid out are Section 103 of the KP Act and Section 290 of IPC, take their colour from the main offence under Section 188 of IPC. The procedure prescribed under Section 195 of Cr.P.C., is that the complaint must be in writing by such officer or an officer superior to him.

8. The contention that the Government Order was passed by a superior officer than the Inspector, Wilson Garden Police Station, is not disputed. Further perused the observations made in W.P.No.23730/2025 from para-4 onwards. The same is extracted below for reference:



*"4. It is further submitted that the main offence being under Section 188 IPC, the offences under Section 290 IPC and Section 103 of the KP Act are only consequential offences and under the given facts and circumstances of the case, they can be sustained only if the offence under Section 188 IPC is legally maintainable.*

*5. It is further submitted that an offence committed under Section 188 of IPC can be taken cognizance only when a private complaint is lodged by the Competent Officer as envisaged under Section 195(1)(a) of Cr.P.C., and the same has not been followed in the instant case. It is further submitted that when the offence under Section 188 of IPC itself fails, the consequential offence under Sections 290 of IPC and 103 of KP Act also cannot stand. It is also contended that a Co-ordinate Bench of this Court, in identical facts and circumstances of the case, has quashed the entire proceedings against the accused therein. Reliance is placed on the order passed by the Co-ordinate Bench of this Court in WP No.24699/2024 disposed on 12.09.2024. On the said grounds, it is prayed that the writ petition should be allowed.*



6. *The learned HCGP has not been able to contravene any of the submissions made hereinabove.*

7. *In WP No. 24699/2024, in paragraphs 4 and 5, it has been held as under:*

4. *The Co-ordinate Bench of this Court in the aforesaid judgment has quashed the proceedings on identical offences against the other accused, wherein it has held as follows:*

"2. *Learned Sr. Advocate Mr.Aruna Shyam appearing for the petitioners submits that the cognizance of the offence could not have been taken by the court below, the private complaint filed u/s 200 of the Code of Criminal Procedure, 1973, for the subject offence itself being incompetent. In support of this, he banks upon of a Coordinate Bench decision in W.P.No.13328/2018 (GM-RES) between SRI. RAJASHEKHARANANDA SWAMIJI AND ANOTHER vs. STATE OF KARNATAKA, disposed off on 18.6.2021. He further submits that the provisions of Section 195 of the Code of Criminal Procedure, 1973 having been held mandatory by the Apex Court in SALONI ARORA V. STATE (NCT OF DELHI), (2017) 3 SCC 286, the quashment has to be granted by this court.*

3. *Learned Addl. SPP appearing for the respondent opposes the petitions contending that there can be delegation of power to lodge the complaint and therefore, in such an event, the author who promulgated the order in question need not go before the court to complain. Even otherwise, according to him, the arguable infirmity not going to root of the matter, no relief can be granted to the petitioners, as prayed for. So contending, he seeks dismissal of the petitions.*



*4. Having heard the learned counsel for the parties and having perused the Petition Papers, this court is inclined to grant relief to the petitioners, broadly agreeing with the submission made on their behalf. Similar question had cropped up before the Coordinate Bench in Rajashekharananda Swamiji supra. A paragraphs 8 & 10 of the judgement, it is observed as under:*

*"8. Reading of the above provision makes it clear that to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank. In the case on hand, as per the complaint itself, prohibitory order under Section 144 of IPC was promulgated by the Commissioner of Police and not the complainant.*

*10. Then the question is Annexures-A to D get vitiated only so far as the offence under Section 188 of IPC. In para 8 of the judgment in State of Karnataka v. Hemareddy1, the Hon'ble Supreme Court held as follows:*

*"8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a Court is necessary under Section 195(1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a Court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 195(1)(b) of the Code of Criminal Procedure should be upheld."*

*(Emphasis supplied)"*

*The above observations come to the aid of petitioners.*



*5. The vehement submission of learned Addl. SPP that there can be delegation of "power to complain" in terms of promulgated order in question, is bit difficult to countenance in the absence of such delegation being demonstrated from the text of the said order itself. It has been a settled position of law vide In Re Delhi Laws Act, 1951 SCC OnLine SC 45 that a delegate cannot further delegate: delegatus non potest potestas delegare. Contra having not been shown, the contention of the kind cannot be countenanced.*

*In view of the above, these petitions being meritorious are allowed to meet the ends of justice and to prevent the abuse of process of the court; the impugned proceedings in C.C.No.24636/2022 pending on the file of learned VI Addl. Chief Metropolitan Magistrate, Bengaluru, are quashed."*

*5. In the light of the orders passed by the Co-ordinate Bench and that of this Court and for the reasons aforementioned, the following:*

**ORDER**

*(i) The petition is allowed.*

*(ii) Proceedings pending in C.C.No.25189/2024 and Private Complaint bearing No 9858/2022 dated 22.6.2022 before the 29<sup>th</sup> Additional Chief Metropolitan Magistrate and which was subsequently transferred to 42<sup>nd</sup> Additional (Spl Court Trial Cases filed against sitting a well as former MP's and MLA, triable by Magistrate in the State of Karnataka) stand quashed qua the petitioners.*



8. *In the light of the order passed by a Co-ordinate Bench of this Court in WP No. 24699/24 and also in the light of the undisputed submissions made by the petitioners as mentioned above, I pass the following:*

ORDER

- (i) *The criminal petition is **allowed**.*
- (ii) *The impugned Proceedings pending in C.C. No. 25189/2024 on the file of 42nd Additional C.M.M. Court, Bengaluru, for the offences punishable under Sections 188 and 290 of IPC and Section 103 of Karnataka Police Act, in so far as it relates to the petitioners herein is concerned, is set aside."*

9. In light of the reasoning and observations made in W.P.No.23730/2025 insofar as the co-accused are concerned, noticing the reiteration by the Court, that complaint must be filed by the person who has promulgated the prohibition and delegation is also impermissible and also it is noticed that the Court has taken note that when the main offence is set aside, the



allied offences are also required to be set aside, the present petition also deserves to be allowed.

10. Accordingly, the petition is ***allowed***. The proceedings in C.C.No.25189/2024 pending on the file of the XLII Additional Chief Judicial Magistrate, Bengaluru for the offences punishable under Sections 188, 290 of IPC and Section 103 of Karnataka Police Act insofar as the petitioners herein is set aside.

**Sd/-**  
**(S SUNIL DUTT YADAV)**  
**JUDGE**

MCR