NC: 2026:KHC:20486
CRL.P No. 4536 of 2026

HC-KAR

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

**DATED THIS THE 15TH DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE M.NAGAPRASANNA**

**CRIMINAL PETITION NO. 4536 OF 2026**

**(482(Cr.PC) / 528(BNSS))**

**BETWEEN:**

1. AJITH KUMAR
S/O. SRINIVAS
AGED ABOUT 37 YEARS,
R/AT POLALI HOUSE,
ADDORU VILLAGE,
DAKSHINA KANNADA- 574219.

2. KISHORE KUMAR
S/O LATE SANJEEVA,
AGED ABOUT 40 YEARS,
R/AT THOKALA HOUSE,
MALURU, GURUPURA,
DAKSHINA KANNADA- 574145.

3. YUSUF SHAFI,
S/O. MOHAMMED,
AGED ABOUT 64 YEARS,
R/AT 4-137 PATLA MUDUPUDI,
NEW BADRIYA HOUSE,
ULLALA, DAKSHINA KANNADA- 575020.

4. PRAKASH CHANDRA RAI,
S/O. LATE DEVASYA RAMANNA,
AGED ABOUT 70 YEARS,
R/AT MANE DEVASYA,
MANE MARIPALLA,

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Location: HIGH COURT OF KARANTAKA

PUDU VILLAGE,
BANTWAL TALUK,
DAKSHINA KANNADA- 574143.

5. KARUNAKAR,
S/O. SHANKAR MULYA,
AGED ABOUT 56 YEARS,
R/AT SHIVAJI NAGARA,
BENJINA PADAVU,
AMMANJE VILLAGE,
BATWAL TALUK,
DAKSHINA KANNADA- 574219.

6. PRAVEENA
S/O. MADHAVA,
AGED ABOUT 47 YEARS,
R/AT JARANDA GUDDE HOUSE,
KALLIGE VILLAGE,
BANTWAL TALUK,
DAKSHINA KANNADA- 574211.

7. SUNDAR SHETTY
S/O. ANU KAMBALI,
AGED ABOUT 53 YEARS,
R/AT HOUSE NO.3/42,
PACHERI AJJIBETTU HOUSE,
B. MOODA VILLAGE, BANTWAL TALUK,
DAKSHINA KANNADA- 574324.

8. ABDUL RAZAAK,
S/O. MOHAMMED,
AGED ABOUT 60 YEARS,
R/AT NEAR KUDROLI TEMPLE HOUSE,
KUDROLI, BLOCK NO.14,
KODIYALA BAILU,
DAKSHINA KANNADA- 575003.

9. MANOOJ
S/O. MADHAVA,
AGED ABOUT 50 YEARS,
R/AT MANJUSHREE NILAYA HOUSE,

MARNAMI KATTE,
DAKSHINA KANNADA-575002.

10. DAVOOD ABDUL KHADAR,
S/O. LATE ABDUL KHADAR,
AGED ABOUT 63 YEARS,
R/AT PARAPU HOUSE,
IRA VILLAGE,
BANTWAL TALUK,
DAKSHINA KANNADA-574323.

11. P.H. YAKUB
AGED ABOUT 43 YEARS,
R/AT AREKALA KANDIGA HOUSE,
AREKALA VILLAGE,
BANTWALA TALUK,
DAKSHINA KANNADA-574199

…PETITIONERS

(BY SRI. NISHIT KUMAR SHETTY., ADVOCATE)

**AND:**

1. STATE OF KARNATAKA
BY SHO, BANTWAL TOWN POLICE STATION,
DAKSHINA KANNADA,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE 560 020

2. SRI. SUDHAKAR G. THONSE
AGED ABOUT 55 YEARS
SUB-INSPECTOR OF POLICE,
BANTWAL TOWN POLICE STATION,
BANTWALA TALUK,
D.K. DISTRICT.574219

…RESPONDENTS

(BY SMT. SOWMYA R., HCGP)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONERS IN CC.NO.2737/2021 OF BANTWAL P.S., FOR THE OFFENCES P/U/S 78(1)(B) AND 80 OF K.P ACT, 1963, PENDING BEFORE THE ADDL. CIVIL JUDGE AND JMFC COURT, BANTWAL, D.K. DISTRICT.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

**ORAL ORDER**

The petitioners are before this Court calling in question proceedings in C.C.No.2737/2021 registered for offences punishable under Sections 78(1)(B) and 80 of the Karnataka Police Act, 1963, pending before the Additional Civil Judge and JMFC Court, Bantwal, Dakshina Kannada district.

2. The issue in the petition is akin to what is decided in Crl.P.No.3916/2018 disposed on 17.02.2020, wherein this Court has examined the identical facts and offences alleged against the petitioners therein. While so examining, this Court has held as follows:

*"4. The gist of the complaint is that on 23.05.2017 at about 11.30 a.m., received a credible information that a group of people gathered on Queen's Road shouting slogans against the Government. Immediately, he went to the spot and found that 50 young men assembled illegally and disturbed the public and vehicles without prior permission from the station. On enquiry he found that they are the members of Campus Front of India Karnataka and protesting against interference religious and personal freedoms by imposing dress code in 'AIIMS Exam' which is against the personal and religious rights of our Constitution. Immediately they were disbursed and a case has been registered and after investigation, the charge sheet has been filed.*

*5. It is the submission of the learned counsel for petitioners that though there is no substantial material as against petitioners/accused Nos.1 to 48, the respondent have investigated the case and have filed the charge sheet against petitioners/accused Nos.1 to 48. It is his further submission that in order to file a charge sheet under Section 143 of IPC, the unlawful assembly must satisfy the ingredients as contemplated under Section 141 of IPC but none of the ingredients are satisfied in this case. It is his further submission that mere presence in an unlawful assembly, cannot render a person liable unless there was a common object, they were actuated by the common object and that object is one of those set out under Section 141 of IPC. It is his further*

*submission that if the common object of an unlawful assembly is not proved, the accused persons cannot be convicted either under Section 143 of IPC or under Section 149 of IPC. It is his further submission that the prosecution has to prove the overt-acts as against the persons who have been alleged as a member of unlawful assembly. In order to substantiate his said contention, he has relied upon the decision of the Hon'ble Apex Court in the case of* ***CHARAN SINGH AND OTHERS Vs. STATE OF UTTAR PRADESH*** *reported in* ***(2004) 4 SCC 205****. It is his further submission that as per the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) Order 2009, the permission is required in Bangalore City if the congregation of more than 250 persons assembling at one place with an intention to*

*conduct the meeting, protest, to hear a public speech including political, social, religious and cultural meetings to which the public have got free access. The said condition specially says that no permission or license is required in Bangalore City if the congregation of more than 250 persons assembling at one place with an intention of conducting meeting to protest. It is the specific submission that petitioners/accused Nos.1 to 48 have given the letter dated 20.05.2017 seeking permission but no such permission is granted by the Commissioner of Police., under such circumstance, the said assembly cannot be held as an unlawful assembly and the provisions of Sections 141, 143, 147, 149, 188 of IPC are not attracted. On these grounds, he prayed to allow the petition and to quash the proceedings.*

*6. Per contra, learned High Court Government Pleader vehemently argued and submitted that as per the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) order, 2009 the congregation of more than 250 persons is required but as per Section 141 of IPC, an assembly of five or more persons is considered to be an unlawful assembly and if they have assembled with a common object, then under such circumstance, accused persons can be prosecuted for the alleged offences. It is his further submission that the contents of the complaint and other materials clearly indicate that they were intending to proceed to Raj Bhavan in that light, they have obstructed the public traffic, public movement and thereby, they have violated the provisions of Section 141 of IPC*

*and other provisions of law. It is his further submission that there are independent eye-witnesses and they have also categorically stated with regard to the overt-acts of each of the accused persons and there is ample materials to connect the accused persons to the alleged crime. On these ground, he prayed to dismiss the petition.*

*7. I have carefully and cautiously gone through the submissions made by the learned counsel appearing for both the parties and perused the records.*

*8. On perusal of records, it is the case of the prosecution that the petitioners/accused Nos.1 to 48 have assembled and were protesting against interference and dress code imposed by AIIMS exam and also have not obtained any permission from the concerned Authorities.*

*But as could be seen from the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) Order, 2009 assembly means a congregation of more than 250 persons assembling at one place with an intention of conducting meeting or protest, to hear a public speech including political, social, religious and cultural meetings to which the public have got free access, license is required only when more than 250 persons are there. Admittedly in the instant case, the contents of the complaint and other materials indicates that only 50 persons have assembled. In that light, a license said to have been is not necessary as per the Order of 2009. The only question which remains for consideration of this Court is that whether the assembly of petitioners/accused Nos.1 to 48 had*

*constituted an unlawful assembly as per Section 141 of IPC? In order to attract the said provision, the assembly must satisfy five ingredients which have been stated therein but on close reading of the contents of the complaint, charge sheet material and other materials, it indicates that none of the ingredients are present as contemplated under Section 141 of IPC.*

*9. Be that as it may. If 50 persons have assembled at a particular place, then under such circumstance, it cannot be held as an unlawful assembly. Mere presence of a person in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141 of IPC. This proposition of law has been laid down by the*

*Hon'ble Apex Court in the case of* ***CHARAN SINGH (Quoted supra)*** *at paragraph No.13, it has been observed as under:*

*"13. Coming to the others who were armed with double-barrelled guns and country-made pistols, the question is regarding applicability of Section 149 IPC. Section 149 IPC has its foundation on constructive liability which is the sine qua non for its operation. The emphasis is on the common object and not on common intention. Mere presence in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141. Where common object of an unlawful assembly is not proved, the accused persons cannot be convicted with the help of Section 149. The crucial question to determine is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects, as specified in Section 141. It*

*cannot be laid down as a general proposition of law that unless an overt act is proved against a person, who is alleged to be a member of an unlawful assembly, it cannot be said that he is a member of an assembly. The only thing required is that he should have understood that the assembly was unlawful and was likely to commit any of the acts which fall within the purview of Section 141. The word "object" means the purpose or design and, in order to make it "common", it must be shared by all. In other words, the object should be common to the persons, who compose the assembly, that is to say, they should all be aware of it and concur in it. A common object may be formed by express agreement after mutual consultation, but that is by no means necessary. It may be formed at any stage by all or a few members of the assembly and the other members may just join and adopt it. Once formed, it need not continue to be the same. It may be modified or altered or abandoned at any stage. The expression "in prosecution of common object" as appearing*

*in Section 149 has to be strictly construed as equivalent to "in order to attain the common object". It must be immediately connected with the common object by virtue of the nature of the object. There must be community of object and the object may exist only up to a particular stage, and not thereafter. Members of an unlawful assembly may have community of object up to a certain point beyond which they may differ in their objects and the knowledge, possessed by each member of what is likely to be committed in prosecution of their common object may vary not only according to the information at his command, but also according to the extent to which he shares the community of object, and as a consequence of this the effect of Section 149 IPC may be different on different members of the same assembly."*

*10. On close perusal of the charge sheet material, it indicates that none of the ingredients specify in Section 141 of IPC are present so as to attract the provisions of*

*Sections 141, 143, 149, 188 of IPC. When that being the case, then under such circumstances, the proceedings initiated as against petitioners/accused Nos.1 to 48 appears to be not in accordance with law and the same is liable to be quashed*

*11. Accordingly, petition is allowed and the proceedings initiated in C.C. No.23259/2017 pending on the file of VIII Additional CMM, Bengaluru for the offence punishable under Section 143 read with Section 149 of IPC is hereby quashed."*

The aforesaid order passed by a Co-ordinate Bench of this Court would cover, the case at hand on all its fours. That apart, there were no witnesses that would speak about the incident alleged against the petitioners which has happened in a broad day light, apart from all the witnesses examined being police officials.

3. Therefore, in the light of the order passed by a Co-ordinate Bench of this Court *supra*, the following:

**ORDER**

i. Criminal Petition is allowed.

ii. Proceedings pending in C.C.No.2737/2021 before Additional Civil Judge and JMFC Court, Bantwal, Dakshina Kannada district, stands quashed.

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

SKS
List No.: 1 Sl No.: 163