

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.8866 of 2025

DATE: 23.03.2026

BETWEEN:

Nalamada Uthamkumar Reddy

.....petitioner/accused No.1

And

The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
at Hyderabad and another.

.....Respondents/complainant

ORDER

This Criminal Petition is filed seeking to quash the proceedings against the petitioner/accused No.1 in C.C.No.401 of 2023 on the file of the learned special Judicial

Magistrate of First class for Excise Cases, Hyderabad, registered for the offences punishable under Sections 188 of IPC and Section 30 of the Police Act, 1861.

2. The brief facts of the case are that on 10.10.2019 at about 08:00 hours, the complainant, who was working as MCC-IV In-charge for Nereducherla Mandal in connection with the Huzurnagar Assembly Bye-Elections, lodged a written complaint before the police stating that on 06.10.2019 at about 21:30 hours, N. Uttam Kumar Reddy and N. Uttam Padmavathi, who was contesting the bye-election, allegedly conducted a meeting and election campaign in the Telugu Baptist Church at Dirshincherla village in violation of the election code and rules. Basing on the same, the case was registered for the above said offences.

3. Heard Sri Madupu Shashikanth, learned counsel appearing on behalf of the petitioner as well as Sri M. Ramachander Reddy, learned Additional Public Prosecutor appearing on behalf of the respondent - State and Sri P.

Vivek Kumar Naik, learned counsel appearing on behalf of respondent No.2.

4. Learned counsel for the petitioner submitted that the criminal proceedings are liable to be quashed as the mandatory requirement under Section 195(1)(a) Cr.P.C. has not been complied with, since the alleged offence under Section 188 IPC can be taken cognizance of only on a complaint filed before the Magistrate by the concerned public servant, whereas in the present case the proceedings were initiated on the basis of a police report. He further submitted that even if the allegations are taken at their face value, no offence is made out against the petitioner and that the proceedings are legally barred. He contended that the case falls within the parameters laid down by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**¹, and reliance is placed on the decision of this Court in **Y.S. Jagan Mohan Reddy v. State of Telangana**², wherein similar proceedings were quashed for non-compliance with Section 195(1)(a) Cr.P.C. Therefore, he prayed the Court to quash

¹ 1992 Supp (1) SCC 335

² 2023 SCC Online TS 4090

the proceedings against the petitioner by allowing this Criminal Petition.

5. On the other hand, learned Additional Public Prosecutor and learned counsel for respondent No.2, respectively, submitted that the allegations in the complaint disclose that the petitioner and others conducted a political meeting and campaign in a religious place during the Huzurnagar Assembly Bye-Elections, thereby violating the election rules and the Model Code of Conduct. They further submitted that the investigation has been completed and the charge sheet has been filed based on the material collected during the course of investigation. They further contended that the issues raised by the petitioner are matters to be decided during trial and not at the stage of quashing proceedings. Therefore, they prayed the Court to dismiss the Criminal Petition.

6. In the light of the submissions made by both the learned counsel and a perusal of the material available on record, it appears that the petitioner was charged for the offences punishable under Sections 188 of the Indian Penal

Code, 1860 and Section 30 of the Police Act 1861. It is specifically contended by the learned counsel for the petitioners that as there is a bar under Section 195 (1) (a) of Cr.P.C., whereunder, a written complaint has to be filed by the public servant/authorized officer, the Police has to follow the same, but the same is not followed in the present case. Further, at this stage, it is imperative to note the relevant Sections, which are as follows:

7. Section 188 of the I.P.C reads as follows:

Section 188: Disobedience to order duly promulgated by public servant.

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which

may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation: It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration: An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section”.

8. Section 195(i) (a) of Cr.P.C., reads as under:-

“(i) (a) 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;”

9. Reverting to the facts of the case on hand, a perusal of Section 188 of IPC makes 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. Further, Section 2 (d) of Cr.P.C., defines complaint as allegations made orally or in writing to the Magistrate with a view to the Magistrate taking action on such complaint, the Magistrate can take cognizance under Section 190 (1)(a) of Cr.P.C.. Thereafter, the procedure prescribed under Section 200 of Cr.P.C has to be followed. Therefore, the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction.

10. Further, upon perusal of the complaint, it appears that there is no specific allegation in the complaint or the charge sheet that the petitioner conducted the meeting or campaign without obtaining prior permission from the competent authority, and therefore the provisions of Section 30 of the Police Act, 1861 are not attracted to the facts of the present case. In view of the above, the FIR culminating in taking cognizance of the aforesaid offences stands vitiated. Hence, continuation of criminal proceedings against the petitioner is nothing but abuse of process of law.

12. Accordingly, the criminal petition is allowed and the proceedings against the petitioners in C.C.No.401 of 2023 on the file of the learned special Judicial Magistrate of First class for Excise Cases, Hyderabad, are hereby quashed.

Miscellaneous applications, if any pending, shall also stand closed.

K.SUJANA, J

Date: 23.03.2026
SAI

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