



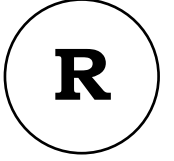
**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13<sup>TH</sup> DAY OF FEBRUARY, 2025**

**BEFORE**

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

**WRIT PETITION NO. 34162 OF 2024 (GM-RES)**



**BETWEEN:**

MR. ARNAB GOSWAMI  
S/O LATE MR. MANORANJAN GOSWAMI  
AGED ABOUT 51 YEARS  
HAVING HIS OFFICE AT  
REPUBLIC MEDIA HOUSE  
PLOT NO 10A, SECTOR 158  
GAUTAM BUDDHA NAGAR, NOIDA  
UTTAR PRADESH – 201 301.

...PETITIONER

(BY SRI. ARUNA SHYAM, SR. ADV. FOR  
SRI ANAND MUTTALLI, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
BY S.J.PARK POLICE STATION  
REPRESENTED BY ITS  
STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA,  
BENGALURU – 560 001.
2. MR. RAVINDRA M. V.,  
AGED ABOUT 38 YEARS  
HAVING OFFICE AT



CONGRESS BHAVAN NO.14  
QUEENS ROAD, BENGALURU CITY  
KARNATAKA – 560 005.

...RESPONDENTS

(BY SRI JAGADEESHA B.N., ADDL. SPP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO CALL FOR RECORDS IN CRIME NO. 0035/2024 PENDING BEFORE HON'BLE 6TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU; QUASH THE FIR IN CRIME NO. 0035/2024 ALONG WITH COMPLAINT DTD. 27.03.2024 FOR OFFENCE PUNISHABLE UNDER SECTION 505(2) OF THE INDIAN PENAL CODE, 1860 BEFORE S.J. PARK POLICE STATION PENDING ON THE FILE OF 6TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, AT BENGALURU VIDE (ANNX-A).

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

CORAM: **HON'BLE MR JUSTICE M.NAGAPRASANNA**

**ORAL ORDER**

The petitioner is before this Court calling in question registration of a crime in Crime No.35/2024, for the offence punishable under Section 505(2) of the IPC.

2. Heard Sri. Aruna Shyam, learned senior counsel for Sri Anand Muttalli, learned counsel for the petitioner and



Sri Jagadeesha B.N., learned Additional State Public Prosecutor representing respondent No.1 – State.

3. Sans details, facts in brief, germane, are as follows:

The petitioner is one of the directors of the holding company of the channel - R. Kannada, which is, ARG Outlier Media Private Limited. The petitioner owns and operates the Republic Media Network. The Republic Media Network operates news channels in English, Hindi, Bangla and Kannada. In Kannada, it is R.Kannada. The petitioner is the Editor-in-chief of the Republic Media Network; is said to have more than 20 years of experience in the field of journalism and to be the most decorated journalist in the field.

4. The second respondent is the complainant, who is said to be the Member of the Karnataka Pradesh Congress Committee, representing the Indian National Congress. A complaint comes to be registered against the petitioner along with the Executive Editor of the news channel – Republic Kannada / R.Kannada alleging that a news is reported by the



R.Kannada news channel on a video that was circulated depicting that an ambulance was made to wait in thick traffic for the reason that the Chief Minister convoy was to pass through the said road. The road was M.G.Road, Bengaluru. This according to the news, restricted the movement of the vehicles including the aforesaid ambulance. Alleging that this was a false report, to spread negative opinion, during the elections to the Parliament, a complaint comes to be registered, which becomes a crime in Crime No.35/2024, for offence punishable under Section 505(2) of the IPC. The registration of the crime, is what has driven the petitioner to this Court in the subject petition.

5. Learned senior counsel for the petitioner – Sri Aruna Shyam, would vehemently contend that the petitioner is not involved in day-to-day functioning or decision making of the news channel - R.Kannada; nor the petitioner has hosted or participated in the airing of the news. Therefore, he is implicated without any rhyme or reason. On the allegations made in the complaint, the learned counsel would contend that none of the ingredients as necessary to be met for it to become



an offence under Section 505(2) of the IPC is present in the case at hand. He would therefore, seek quashment of the proceedings, by placing reliance upon several judgments of the Apex Court. All of which would bear consideration in the course of the order.

6. Per contra, learned Additional State Public Prosecutor would seek to contend that the matter is at the stage of investigation. FIR is now registered for the aforesaid offence, it may vary at the time of filing of the charge sheet. The petitioner would be held responsible as being one of the directors or Editor-in-Chief of the channel. It cannot air false news. He would seek dismissal of the petition.

7. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

8. The afore-narrated facts are not in dispute, they lie in a narrow compass. An incident of airing of a particular news in the R.Kannada news channel on 27.03.2024, results in a



complaint being registered by the Member of the Karnataka Pradesh Congress Committee. Since the entire issue has now triggered from the complaint, it is germane to notice the complaint. It reads as follows:

“ರವೀಂದ್ರ ಎಂ. ವಿ. ವಕೀಲರು

ದಿನಾಂಕ:27.03.2024

ರಾಜ್ಯ ಕಾರ್ಯದರ್ಶಿ  
ಕಾನೂನು, ಮಾನವ ಹಕ್ಕುಗಳು ಮತ್ತು  
ಮಾಹಿತಿ ಹಕ್ಕು ವಿಭಾಗ, ಕೆ.ಪಿ.ಸಿ.ಸಿ.  
ಇವರಿಗೆ,

ಆರಕ್ಷಕ ನಿರೀಕ್ಷಕರು  
ಎಸ್. ಜೆ ಪಾರ್ಕ್ ಪೊಲೀಸ್ ಠಾಣೆ,  
ಬೆಂಗಳೂರು.

ಮಾನ್ಯರೇ.

ವಿಷಯ: ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳ ವಿರುದ್ಧ ಸುಳ್ಳು ಸುದ್ದಿ ಬಿತ್ತರಿಸಿರುವ ರಿಪಬ್ಲಿಕ್ ಕನ್ನಡದ ಮಾಲೀಕರಾದ ಅರ್ನಬ್ ಗೋಸ್ವಾಮಿ ಹಾಗೂ ಸಂಪಾದಕ ನಿರಂಜನ್ ವಿರುದ್ಧ ದೂರು.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ದಿನಾಂಕ 27.03.2024 ರಂದು ಸಂಜೆ 7:15 ಗಂಟೆಗೆ ಆರ್ ಕನ್ನಡ ಸುದ್ದಿ ವಾಹಿನಿಯಲ್ಲಿ ಎಂಜಿ ರಸ್ತೆಯ ಮೂಲಕ ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳಾದ ಸಿದ್ದರಾಮಯ್ಯ ಅವರು ಸಂಚರಿಸುವ ಸಂಬಂಧ ವಾಹನಗಳ ಸಂಚಾರ ತಡೆದು ಅಂಬ್ಯುಲೆನ್ಸ್ ಸಂಚಾರಕ್ಕೆ ಅಡ್ಡಿಪಡಿಸಿದ್ದಾರೆ ಎಂದು ವ್ಯಕ್ತಿಯೊಬ್ಬರು ಮಾಡಿದ ವಿಡಿಯೋ ತುಣುಕನ್ನು ಪ್ರಸಾರ ಮಾಡಿರುತ್ತಾರೆ. ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳು ಮೈಸೂರಿನಲ್ಲಿದ್ದು ಬೆಂಗಳೂರಿನ ಕಡೆಗೆ ಪ್ರಯಾಣ ಮಾಡಿರುವ ಸಂದರ್ಭದಲ್ಲಿ ಪರಿಶೀಲನೆ ನಡೆಸದೆ ಚುನಾವಣೆಯ ಸಂದರ್ಭದಲ್ಲಿ ಸಾರ್ವಜನಿಕರನ್ನು ಪ್ರಚೋದಿಸುವ ಸಲುವಾಗಿ ತಪ್ಪು ಮಾಹಿತಿ ಪ್ರಸಾರ ಮಾಡಿರುವ ಆರ್ ಕನ್ನಡ (ರಿಪಬ್ಲಿಕ್) ವಾಹಿನಿಯ ಮಾಲೀಕ ಅರ್ನಬ್ ಗೋಸ್ವಾಮಿ ಮತ್ತು ಸಂಪಾದಕ ನಿರಂಜನ್ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಮನವಿ. ದಯವಿಟ್ಟು ಕಲಂ 505(2), ರ ಅಡಿಯಲ್ಲಿ ಭಾರತೀಯ ದಂತಸಂಹಿತೆಯಂತೆ ಕ್ರಮಜರುಗಿಸ ಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿಗಳಾದ

ಸಹಿ/-



(ರವೀಂದ್ರ. ಎಂ.ವಿ)

ಕಾರ್ಯದರ್ಶಿ, ಕಾನೂನು ವಿಭಾಗ, ಕೆಪಿಸಿಸಿ

ಸ್ಥಳ: ಬೆಂಗಳೂರು

ದಿನಾಂಕ: 27.03 2024

ಸಹಿ/-

(ಬಾಬಾಸಾಹೇಬ್ ಪಟೇಲ್, ಹೆಚ್ )

ಕಾರ್ಯದರ್ಶಿ, ಕಾನೂನು ವಿಭಾಗ ಕೆಪಿಸಿಸಿ.”

(Emphasis added)

The allegation in the complaint is that, on 27.03.2024, R.Kannada television channel airs a false news that on the M.G.Road, due to the movement of the Chief Minister and his convoy, the traffic was blocked. An ambulance was stuck in the traffic without being able to reach the hospital. This is alleged to be false as the Chief Minister on the said date was at Mysore. Therefore, airing false news has become the subject matter of the complaint and seeks to take action for the offence punishable under Section 505(2) of the IPC.

8. Though the complaint was registered on 27.03.2024, the petitioner was issued a notice under Section 41-A of the Cr.P.C. after about six months, *i.e.*, on 16.11.2024 and was directed to appear before the S.J.Park Police Station. It is at that juncture, the petitioner approaches this Court in the subject petition. The core issue that would be is, whether the



offence is met in the case at hand. The offence alleged is the one made penal under Section 505(2) of the IPC.

9. Section 505(2) of the IPC reads as follows:

**"505. Statements conducing to public mischief.**

(1) xxx

(2) **Statements creating or promoting enmity, hatred or ill-will between classes.**-- Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

Section 505(2) of the IPC deals with statements creating or promoting enmity, hatred or ill-will between classes. Whoever makes statements, publishes or circulates any statement or report containing rumour or alarming news with an intent to create or promote or likely to create or promote ill-will between two different religions, racial, languages or regional groups.



10. What is aired in the case at hand is an alleged false report, that the convoy of the Chief Minister had to pass and an ambulance has to wait. Even if it is construed to be true, it is un-understandable as to how the ingredients of Section 505(2) is met even to its remotest sense. Therefore, merely because the petitioner is a renowned name in the fourth estate, he is without rhyme and reason dragged into the web of crime, only to project registration of a crime against the petitioner, which on the face of it, is **reckless**.

11. At the time of hearing of the petition, to a pointed query, that '***the Court wants to know what offence the petitioner has committed***', there is no reply. Therefore, he has done nothing, ostensibly, so as the petitioner has not committed any offence as observed hereinabove, the petitioner is dragged in only because he is Arnab Goswami. It is un-understandable as to how the petitioner could be dragged into this. He being the Editor in-Chief or Executive Director of Republic Media Network, he has neither made a statement nor aired anything to promote hatred between the classes. It is the averment that he is not incharge of day-to-day affairs or



minute to minute details of what is aired on R.Kannada. Therefore, it becomes a classic illustration of dragging the petitioner only to settle other scores. Recklessness pervades throughout the registration of the complaint.

12. What would amount to an offence under Section 505(2) of the IPC and what would not, need not detain this Court for long or delve deep into the matter, as the Apex Court in the case of **BILAL AHMED KALOO VS. STATE OF ANDRA PRADESH** reported in **(1997) 7 SCC 431**, interpreting Section 505(2) of the IPC, has held as follows:

“.... ....

10. Section 153A was amended by the Criminal and Election Laws (Amendment) Act 1969 - Act No.XXXV of 1996. It consists of three clauses of which clauses (a) and (b) alone are material now. By the same amending Act sub-section (2) was added to Section 505 of the Indian Penal Code. Clauses (a) & (b) of Section 153A and Section 505(2) are extracted below:

"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.-

(1) Whoever-

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred



or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) \* \* \*

Shall be punished with imprisonment which may extend to three years, or with fine, or with both."

**505(2) Statements creating or promoting enmity, hatred or ill- will between classes.-** Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

**The common ingredient in both the offences is promoting feeling of enmity, hatred or ill-will between different religious or racial or linguistic or regional groups or castes or communities. Section 153A covers a case where a person by "words, either spoken or written, or by signs or by visible representations" promotes or attempts to promote such feeling. Under Section 505(2), promotion of such feeling should have been done by making and publishing or circulating any statement or report containing rumour or alarming news.**

11. This Court has held in Balwant Singh and another vs. State of Punjab (1995) 3 SCC 214) that mens rea is a necessary ingredient for the offence under Section 153A. **Mens rea is an equally necessary postulate for the offence under Section 505(2) also as could be**



discerned from the words "with intent to create or promote or which is likely to create or promote" as used in that sub-section.

12. The main distinction between the two offences is that publication of the word or representation is not necessary under the former, such publication is sine qua non under Section 505. The words "whoever makes, publishes or circulates" used in the setting of Section 505(2) cannot be interpreted disjunctively but only as supplementary to each other. If it is construed disjunctively, any one who makes a statement falling within the meaning of Section 505 would, without publication or circulation, be liable to conviction. But the same is the effect with Section 153A also and then that Section would have been bad for redundancy. The intention of the legislature in providing two different sections on the same subject would have been to cover two different fields of similar colour. The fact that both sections were included as a package in the same amending enactment lends further support to the said construction.

13. xxx

14. In *Sunilakhya Chowdhury vs. H.M. Jadwet and another* (AIR 1968 Calcutta 266) it has been held that the words "makes or publishes any imputation" should be interpreted as words supplementing each other. A maker of imputation without publication is not liable to be punished under that section. We are of the view that the same interpretation is warranted in respect of the words "makes, publishes or circulates" in Section 505 IPC also.

15. The common feature in both sections being promotion of feeling of enmity, hatred or ill-will



**"between different" religious or racial or language or regional groups or castes and communities it is necessary that atleast two such groups or communities should be involved. Merely inciting the felling of one community or group without any reference to any other community or group cannot attract either of the two sections.**

**16. The result of the said discussion is that appellant who has not done anything as against any religious, racial or linguistic or regional group or community cannot be held guilty of either the offence under Section 153A or under Section 505(2) of IPC."**

(Emphasis supplied)

Later, the Apex Court in the case of **MANZAR SAYEED KHAN V. STATE OF MAHARASHTRA** reported in **(2007) 5 SCC 1**, has held as follows:

".... ....

**15.** We have given our thoughtful consideration to the respective contentions of the learned counsel for the parties. The question to be decided now is whether the paragraph complained of would attract the penal consequences envisaged in Section 153-A IPC. Section 153-A IPC was amended by the Criminal Law (Amendment) Act, 1969 (Act 35 of 1969). It consists of three clauses of which clauses (a) and (b) alone are material for the case on hand, which read as under:

*"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—(1) Whoever—*



(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, or

(c)\*\*\*

shall be punished with imprisonment which may extend to three years, or with fine, or with both."

**16.** Section 153-A IPC, as extracted hereinabove, covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning.



**17.** In *Ramesh v. Union of India* [(1988) 1 SCC 668 : 1988 SCC (Cri) 266 : AIR 1988 SC 775] this Court held that TV serial *Tamas* did not depict communal tension and violence and the provisions of Section 153-A IPC would not apply to it. It was also not prejudicial to the national integration falling under Section 153-B IPC. Approving the observations of Vivian Bose, J. in *Bhagwati Charan Shukla v. Provincial Govt.* [AIR 1947 Nag 1] the Court observed that

“the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. ... It is the standard of ordinary reasonable man or as they say in English law ‘the man on the top of a Clapham omnibus’.” (*Ramesh case* [(1988) 1 SCC 668 : 1988 SCC (Cri) 266 : AIR 1988 SC 775] , SCC p. 676, para 13)

**18. Again in *Bilal Ahmed Kaloo v. State of A.P.* [(1997) 7 SCC 431 : 1997 SCC (Cri) 1094] it is held that the common feature in both the sections viz. Sections 153-A and 505(2), being promotion of feeling of enmity, hatred or ill will “between different” religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it was observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.**

**19.** Prof. James W. Laine, the author of the book, has exercised his reason and his own analytical skills before choosing any literature which he intends to include in his book. Even if the appellant Manzar Sayeed Khan, a constituted attorney of Oxford University Press, India and the appellant Vinod Hansraj Goyal, proprietor of Rashtriya Printing Press, Shahdara, Delhi, or the persons whose names are mentioned in the acknowledgment by the author, have provided information for the purpose, including the said paragraph in the book, it is important and worth observing that the author has mentioned that



BORI, Pune has been his scholarly home in India and many people therein helped him for collecting the material. The author has given the names of many persons, who had helped him in one way or the other and enlightened him about the history of the historical hero "Shivaji". The author has also mentioned in the book about the International Conference on Maharashtra, etc. which has given him a lot of material for inclusion in his book. As it appears from the records, BORI, Pune was established almost 90 years back and it has a great tradition of scholarly work. It is very improbable to imagine that any serious and intense scholar will attempt to malign the image of this glorious institute. The author thought his work to be worthy of dedication to his mother, Marie Whitwell Laine, which was purely a scholarly pursuit and without any intention or motive to involve himself in trouble. It is the sole responsibility of the State to make positive efforts to resolve every possible conflict between any of the communities, castes or religions within the State and try every possible way to establish peace and harmony within the State under every and all circumstances.

**20.** In *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] this Court has observed that an FIR can be quashed if it does not disclose an offence and there is no need for any investigation or recording of any statement."

(Emphasis supplied)

In the light of the ingredients of the offence under Section 505(2) of the IPC is not been met, even to the remotest sense, in the case at hand, and also the interpretation of the Apex Court on Section 505(2) of the IPC, in the afore-quoted judgment, permitting investigation even against the petitioner



would result in gross abuse of the process of the law by the prosecution, and would undoubtedly result in **patent injustice**.

13. The submission of the learned Additional State Public Prosecutor that the complaint is only registered and the charge sheet may vary the offence, is noted only to be rejected. To permit investigation, there should be substance in the complaint. Except malafides, there is no substance in the complaint. It is in such cases, the Apex Court permits obliteration of the investigation even when it is, in the crime stage itself.

14. It becomes apposite to refer to the judgment of the Apex Court rendered in the case of **STATE OF HARYANA V. BHAJAN LAL** reported in **1992 Supp. 1 SCC 335**, wherein the Apex Court holds as follows:

**"102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be



exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.**
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.**
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act,



providing efficacious redress for the grievance of the aggrieved party.

- (7) **Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”**

(Emphasis supplied)

In the light of the preceding analysis and also the judgments of the Apex Court as afore-quoted, permitting investigation even, in the case at hand would become an abuse of the process of the law and result in miscarriage of justice. Therefore, it deem it appropriate obliterate the ***damocles sword*** hanging on the head of the petitioner of a irresponsible crime registered against him.

15. For the aforesaid reasons, the following:

**ORDER**

- a. The writ petition is allowed.



- b. The impugned crime in Crime No.35/2024, pending before the 6<sup>th</sup> Additional Chief Metropolitan Magistrate, Bengaluru, *qua* the petitioner, stands obliterated.

**\_\_\_\_\_SD/-\_\_\_\_\_**  
**JUSTICE M.NAGAPRASANNA**

NVJ  
List No.: 19 SI No.: 76  
CT:SS