

ORDER BELOW EXH. 1 IN CRI. M. A. NO. 450/2024

(Akash Dalavi and Ors. Vs. Rajendra Raut)

(CNR NO.MHSO140026442024)

The applicants / complainants no. 1 to 5 have filed this complaint against the respondent / accused under section 125-A of the Representation of the People Act, 1951. According to them, the respondent / accused had filed false affidavit before Returning Officer and thereby committed offence punishable under section 125-A of said Act.

2) Initially the matter was filed and pending before J.M.F.C. Court Barshi. Later on it has been transferred to this court on 13.11.2025. In view of order passed below exh. 1 dated 28.11.2025 applicants / complainants were directed to argue on the point as to how the complaint / application filed by 5 complainants is maintainable and how they have locus standi and authority to file application / complaint under section 125-A of the Representation of the People Act , 1951.

3) The applicants / complainants no. 1, 3 and 4 have filed written notes of arguments below exh. 45 and applicant / complainant no. 2 has filed written notes of argument at exh. 38. They all have denied to deliver oral arguments. Applicant / complainant no.5 has filed written notes of argument at exh.39 and also has delivered oral arguments as per said written notes of arguments. All the applicants/complainants have mentioned various citations in their written notes of arguments but only applicant / complainant no. 5 has submitted copies of said authorities on

record. Applicants / complainants no. 2 and 5 have relied on the rulings in case of **A. R. Antulay Vs. Ramdas Srinivas Nayak and anr.** (1984 (2) SCC 500), **Virindar Kumar Satyawadi Vs. The State of Punjab** (Cri. Appeal no. 62/1954 decided on 22.11.1955), **Subramanian Swamy Vs. Election commission India and Ors.** (Spl. Leave to Appeal (Civil) No. 7182/2007 dated 18.05.2007, **K. Palanisamy Vs. State of Tamilnadu and anr.** (Cri. Revision Case no. 864/2023 and cri. M.P. No. 6679/2023 dated 22.01.2025), **Lal Chandra Ram Vs. State of U.P and ors.** (Cri. Appeal no. 4920/2025 dated 18.11.2025), **Rajkumar Madki Vs. Shailendra Beldale** (Spl. leave to appeal (Cri.) No. 8863/2025 dated 14.07.2025), **Vikrant Pralhad Kate and anr. Vs. Dr. Ranjeet Vitthalrao Patil and anr.** (Cri. Writ Petition no. 294 / 2016 dated 05.10.2017, **Satish Ukey Vs. Devendra Gangadharrao Fadnavis and anr.** (Cri. Appeal nos. 1515-1516 of 2019 dated 01.10.2019, **Nazir Ahmad Vs. State of Bihar** (Cri. Misc. no. 21746 of 2014 dated 17.07.2017 and **Sashidhar Jadishan Vs. State of Maharashtra and Ors.** (Cri. Writ petition no. 4153/2025 dated 05.08.2025).

4) Applicants / complainants no.1, 3 and 4 have relied on the rulings in case of **A. R. Antulay Vs. Ramdas Srinivas Nayak and anr.** (1984 (2) SCC 500), **Subramanian Swamy Vs. Election Commission India and Ors.** (Spl. Leave to Appeal (Civil) No. 7182/2007 dated 18.05.2007, **K. Palanisamy Vs. State of Tamilnadu and anr.** (Cri. Revision Case no. 864/2023 and Cri. M.P. No. 6679/2023 dated 22.01.2025), **Lal Chandra Ram Vs. State of U.P and ors.** (Cri. Appeal no. 4920/2025 dated 18.11.2025), **Nazir**

Ahmad Vs. State of Bihar (Cri. Misc. no. 21746 of 2014 dated 17.07.2017.

5) Now it is to be seen whether the applicants / complainants have locus standi to file present complaint under section 125-A of the Representation of the People Act. In case of *A. R. Antulay Vs. Ramdas Srinivas Nayak and anr.*, cited supra, the Hon'ble Apex Court has held in para no. 6 as under ;

“6. It is a well recognised principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. The scheme of the Code of Criminal Procedure envisages two parallel and independent agencies for taking criminal offences to court. Even for the most serious offence of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law. Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision. Numerous statutory provisions, can be referred to in support of this legal position such as (i) Sec. 187 A of Sea Customs Act, 1878 (ii) Sec. 97 of Gold Control Act, 1968 (iii) Sec. 6 of Import and Export Control Act, 1947 (iv) Sec. 271 and Sec. 279 of the Income Tax Act, 1961 (v) Sec. 61 of the Foreign Exchange Regulation Act, 1973, (vi) Sec. 621 of the Companies Act, 1956 and (vii) Sec. 77 of the Electricity Supply Act. This list is only illustrative and not exhaustive. While Sec. 190 of the Code of Criminal Procedure permits anyone to approach the Magistrate with a complaint, it

does not prescribe any qualification the complainant is required to fulfill to be eligible to file a complaint. But where an eligibility criterion for a complainant is contemplated specific provisions have been made such as to be found in Secs. 195 to 199 of the Cr. P. C. These specific provisions clearly indicate that in the absence of any such statutory provision, a locus standi of a complainant is a concept foreign to criminal jurisprudence. In other words, the principle that anyone can set or put the criminal law in motion remains intact unless contra-indicated by a statutory provision. This general principle of nearly universal application is founded on a policy that an offence i. e. an act or omission made punishable by any law for the time being in force (See 2 (n), Cr. P. C.) is not merely an offence committed in relation to the person who suffers harm but is also an offence against society.”

6) In case of **Lal Chandra Ram Vs. State of U.P and ors.**, cited supra, the Hon’ble Apex Court has held in para no. 7 as under ;

“ 7. It is well settled by a catena of decisions of this Court especially “Dr. Subramanian Swamy vs. Dr. Manmohan Singh & Anr.” [(2012) 3 SCC 64], that there is no provision in the Code of Criminal Procedure, 1973 which bars a citizen from filing a complaint for prosecution of a public servant or any other person who has allegedly committed an offence. It has also been stated therein that it is a well recognized principle of criminal jurisprudence that anyone can set out or put the criminal law into motion except where the statute

enacting or creating an offence indicates to the contrary.”

7) **K. Palanisamy Vs. State of Tamilnadu and anr.**, cited supra, the second respondent P. Milany who was neither a candidate contesting from the 86 - Edappadi Assembly constituency nor a voter in the constituency from which the petitioner K. Palanisamy contested election, had filed a private complaint before Hon'ble Judicial Magistrate No. 1, Salem, under section 190 and 200 of Cr.P.C., against the petitioner K. Palanisamy under section 125-A of Representation of the People Act. The petitioner had raised objection that the second respondent is not an aggrieved person and he has no locus standi to prefer the complaint under section 190 and 200 of Cr.P.C. for the offence under section 125-A of the Act. The Hon'ble Madras High Court has held in para no. 7 as under ;

“7. The next contention of the learned senior counsel is that the second respondent lacks locus standi. However, it is important to emphasize that the second respondent, as a social activist and an interested person in politics, has a direct stake in ensuring the integrity of the electoral process. The second respondent is not only entitled to challenge false declarations made in affidavits filed during elections but is also within his rights to raise concerns about any violation of the Representation of the People Act. As the complainant has highlighted alleged false affidavits submitted by the

petitioner, which directly impact the fairness of the election process, the second respondent has sufficient locus standi to file this complaint. Furthermore, the provisions of the Representation of the People Act, which are designed to uphold the democratic process and ensure transparency, make it clear that anyone with an interest in ensuring the integrity of elections has the right to file such complaints. It is incorrect to argue that the second respondent lacks locus standi simply because they are not a voter or candidate in the constituency. The protection of electoral integrity is a public interest matter, and anyone can raise issues concerning violations of the Representation of the People Act.”

8) By placing reliance on all above mentioned rulings I come to the conclusion that, the applicants / complainants have locus standi to file complaint under section 125-A of Representation of the People Act and the complaint on hand is maintainable.

9) Now coming to the point whether the complaint filed by the five applicants / complainants jointly is maintainable or not. In case of *Nazir Ahmad Vs. State of Bihar*, cited supra, the Hon’ble Patna Court has held in para no. 7 as under ;

“7. From perusal of the said decision it is obvious that the Madras High Court has considered the legal position of the other High Courts and Hon’ble Apex Court relying upon the scheme of the Cr.PC., as also section 13(2) of

the General Clauses Act which provides that in all Central Acts and Regulations, unless there is any thing repugnant in the subject or context, words in the singular shall include the plural and vice versa.”

10) In above mentioned judgment the Hon’ble Patna High Court has referred the ruling in case of *R.Murugadoss @ Murugan Vs. State through Sub Inspector Police and ors.* (Cri. Original Petition no.408 of 2008 and Misc. Petition No.1 of 2008) and referred the para no. 14 of said judgment in which Hon’ble Madras High Court has held as under ;

“14. From the conjoint reading of the said decisions referred to earlier, it is easily discernible that a complaint under section 200 of the Code of Criminal Procedure, 1973 can be made more than one person with regard to same cause of action and further it is made clear that in the Code of Criminal Procedure, 1973 or Criminal Rules of Practice, there is no format with regard to complaint to be given under the said Section. Further the word complainant refers to in section 200 of the Code of Criminal Procedure, 1973 includes plural as per section 13 of the General Clauses Act.”

11) By placing reliance on above mentioned ruling I come to the conclusion that, the complaint filed by five applicants /

complainants is maintainable and there is no bar to the number of complainants. Accordingly, I pass following order.

ORDER

1. The complaint filed by five applicants/complainants under section 125-A of the Representation of the People Act , 1951 is maintainable.
2. The verification of only applicant / complainant no. 2 has been recorded and only said applicant / complainant has filed his evidence close pursis. Therefore, other applicants / complainants are directed to remain present on next date for the purpose of verification and examination of other witnesses, if any.

Date : 16/02/2026

(Revati M. Kante)
Addl. Chief Judicial Magistrate,
Barshi.