



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3521]

THURSDAY, THE SEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 3325/2026

Between:

1.MEKAPATI RAJAMOHAN REDDY, S/O VENKU REDDY, AGED 81
YEARS,R/O 8-2-293/82/A/963, ROAD NO. 48, JUBILEE HILLS, SHAIK
PET, HYDERABAD,TELANGANA - 500 033.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC
PROSECUTOR,HIGH COURT OF ANDHRA PRADESH,AT
AMARAVATI.

2.S MANOHARA RAJU, MPDO, MPDO OFFICE,MARRIPADU
MANDAL,SPSR NELLORE DISTRICT,NELLORE.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1.V VINOD K REDDY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

ORDER:

Criminal Petition has been filed under Section 528 Bharatiya Nagarik
Suraksha Sanhita Act, 2023 (for brevity the 'BNSS') by the Petitioner/Sole

Accused, seeking to quash the proceedings against him in STC.No.15 of 2026 on the file of the learned Judicial First Class Magistrate, Udayagiri, SPSR Nellore District.

2. The case of the prosecution is that the De-facto Complainant/LW1 lodged a complaint alleging that on 17.04.2024 at about 20:00 hours at Allampadu Village of Marripadu Mandal, the Accused/Petitioner, namely Mekapati Rajamohan Reddy, voluntarily organized and conducted a “Racha Banda” programme by using loudspeakers, amplifiers, and sound systems without obtaining prior permission from the competent authorities as required under the prevailing election regulations and administrative instructions, and that during the said programme the accused made statements and created an atmosphere intended to promote enmity and hatred between different classes of people in the context of the ongoing elections, thereby allegedly violating the Model Code of Conduct and the lawful orders issued by the competent authorities; it is further alleged that the incident was published in reputed newspapers, namely Eenadu and Andhra Jyothi, pursuant to which the District Election Officer-cum-Returning Officer, Nellore, directed an inquiry, and upon such inquiry a detailed report was submitted confirming the alleged violations of election regulations and Model Code of Conduct guidelines, leading to registration of Crime No.52 of 2024 dated 22.04.2024 at Marripadu Police Station for offences under Section 188 of ‘the I.P.C.,’ and Sections 123 and 125 of the Representation of the People Act, 1951; in the investigation, the

Investigating Officer examined LW1 to LW6, recorded their statements under Section 161(3) of 'the Cr.P.C.,' inspected the scene of offence, prepared a rough sketch, and issued notices under Section 41-A of 'the Cr.P.C.,' and thereafter, upon completion of investigation, LW8 filed the charge sheet in STC No.15 of 2026 against the Petitioner/Accused alleging that the materials collected in investigation *prima facie* disclose commission of the said offences warranting prosecution.

3. Sri V. Vinod K Reddy, the learned Counsel for the Petitioner submits that the registration of FIR No.52 of 2024 for the offence under Section 188 of 'the I.P.C.,' is *ex facie* illegal in view of the bar under Section 195(1)(a)(i) of 'the Cr.P.C.,' which mandates that cognizance can be taken only on a written complaint by the concerned public servant and not on the basis of a police report. It is contended that the police lacked jurisdiction to register the FIR, investigate the matter, and file the charge sheet in STC No.15 of 2026, thereby rendering the entire proceedings unsustainable and liable to be quashed. It is further argued that the prosecution is founded solely on distorted newspaper publications and unverified media reports relating to the "Racha Banda" programme conducted on 17.04.2024.

4. Learned Counsel for the Petitioner further submits that the inquiry conducted by the MPDO and MCC Nodal Officer was mechanical and biased, as it relied only on newspaper clippings without examining independent witnesses or verifying the alleged incident at the spot. The prosecution has

failed to establish the ingredients of Sections 123 and 125 of the Representation of the People Act, 1951 (for brevity 'the Act'), since there is no material showing corrupt practices or promotion of enmity in connection with elections. In the absence of cogent evidence and with only official witnesses being examined, the allegations are inherently improbable and continuation of the proceedings amounts to abuse of process of Court.

5. Per contra, Sri A.Sai Rohith, learned Assistant Public Prosecutor submits that the Petitioner conducted a "Racha Banda" programme on 17.04.2024 at Allampadu Village without obtaining prior permission during the Model Code of Conduct period, thereby violating election regulations and lawful administrative directions. It is further alleged that the speeches made during the programme created an atmosphere likely to disturb public tranquility and promote enmity between different classes in connection with elections, attracting offences under Section 188 of 'the I.P.C.,' and Sections 123 and 125 of 'the Act'. The prosecution also relies upon contemporaneous newspaper reports and the inquiry conducted by the District Election Officer, which allegedly confirmed violation of election guidelines.

6. It is further submitted that, based on the inquiry report and directions of election authorities, Crime No.52 of 2024 was registered and investigation was conducted by examining witnesses, inspecting the scene of offence, preparing a rough sketch, and issuing notices under Section 41-A of 'the Cr.P.C'. Upon completion of investigation, the police found *prima facie*

material against the Petitioner and filed charge sheet in STC No.15 of 2026.

Therefore, the prosecution contends that the issues raised by the Petitioner involve disputed questions of fact which must be decided during trial and cannot be adjudicated in quash proceedings at the threshold.

7. Heard the learned Counsel for the Petitioner and the learned Assistant Public Prosecutor.

8. Thoughtful consideration is bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

9. In the light of the case of the prosecution and the contentions of the learned Counsel for both the sides, now the point for consideration is:

"Whether the proceedings in STC.No.15 of 2026 on the file of the learned Judicial First Class Magistrate, Udayagiri is liable to be quashed in exercise of the inherent powers of the High Court under Section 482 of 'the Cr.P.C.,'/Section 528 of 'the BNSS'?"

10. As per Section 195 of 'the Cr.P.C.,' there is a bar for taking cognizance for the offences punishable under Sections 172 to 188, both inclusive of, 'the I.P.C.,' unless there is a complaint in writing by the public servant concerned.

11. In the instant case, there is no 'complaint' by the public servant, and there was only chargesheet filed under Section 188 of 'the Cr.P.C.' The 'complaint' as contemplated under Section 190 read with 200 of 'the Cr.P.C.,' was not filed.

12. The Hon'ble Supreme Court in **C. Muniappan v. State of T.N.**,¹ has categorically held that Section 195(1)(a)(i) of 'the Cr.P.C.,' imposes a jurisdictional embargo on courts from taking cognizance of offences under Section 188 of 'the I.P.C.,' unless preceded by a written complaint of the competent public servant, thereby safeguarding against vexatious or *mala fide* prosecutions. This provision, being an exception to the general rule under Section 190 of 'the Cr.P.C.,' must be applied in its true spirit, and any attempt to circumvent it by mislabelling or recharacterizing the offence under other provisions of 'the I.P.C.,' is impermissible. The judicial test remains whether the allegations, in substance, disclose an offence that squarely falls within the ambit of Section 195 of 'the Cr.P.C.,' ensuring strict adherence to legislative intent and procedural sanctity.

13. In **Govind Mehta v. State of Bihar**², the Hon'ble Supreme Court held that the legality of cognizance under Section 190 of 'the Cr.P.C.,' must be judged at the moment it is taken, and at that stage the Magistrate must determine whether his jurisdiction is curtailed by Section 195(1)(b) and (c) of 'the Cr.P.C.' Since Section 195 of 'the Cr.P.C.,' is a statutory limitation on the otherwise broad powers under Section 190 of 'the Cr.P.C.,' any non-compliance strips the learned Magistrate of authority to proceed, rendering cognizance without adherence to its mandate wholly without jurisdiction..

¹ (2010) 9 SCC 567

² (1971) 3 SCC 329

14. In **Surjit Singh v. Balbir Singh**³, the Hon'ble Apex Court underscored that Section 195 of 'the Cr.P.C.,' serves to shield individuals from vexatious private prosecutions driven by vendetta, while simultaneously safeguarding the integrity of judicial proceedings and the administration of justice. Where the alleged act amounts to contempt of lawful authority, offences against public justice, or relates to documents produced in evidence, the law mandates an absolute bar on private complaints, vesting exclusive authority in the court to initiate proceedings under Section 340 of 'the Cr.P.C.' The ruling makes clear that private prosecution in such circumstances is impermissible, as public justice demands strict adherence to this statutory safeguard.

15. In **State of Punjab v. Raj Singh**⁴, the Hon'ble Supreme Court held that the embargo under Section 195(1)(b)(ii) of 'the Cr.P.C.,' applies only at the stage of cognizance under Section 190(1) of 'the Cr.P.C.,' and does not restrict the statutory power of the police to investigate an FIR disclosing cognizable offences under Chapter XII of 'the Cr.P.C.,' even if committed in relation to court proceedings. While the court cannot directly take cognizance of such offences due to Section 195 of 'the Cr.P.C.,' it may still initiate a complaint under Section 340 of 'the Cr.P.C.,' on the basis of the FIR and investigation materials, provided the requisite opinion is formed and procedure followed. Thus, police investigation remains unaffected, though cognizance by the court is strictly subject to the statutory bar.

³ (1996) 3 SCC 533

⁴ (1998) 2 SCC 391

16. In **K. Vengadachalam v. K.C. Palanisamy**⁵, the Hon'ble Supreme Court held that the bar under Section 195(1)(b)(ii) of 'the Cr.P.C.,' applies only when forgery is committed with respect to a document after it has been produced or given in evidence in court, i.e., while in *custodia legis*. Since the alleged forgery occurred prior to filing, the High Court erred in quashing the prosecution on that ground. The Court further clarified that Section 195(1)(a) of 'the Cr.P.C.,' which covers offences under Sections 172 to 188 of 'the I.P.C.,' was irrelevant because the case concerned forgery of documents rather than falsity of a complaint before the Deputy Registrar. Accordingly, the High Court's order was unjustified, and prosecution was held maintainable.

17. In **Basir-Ul-Huq v. State of W.B.**,⁶ the Hon'ble Apex Court held that Section 195 of 'the Cr.P.C.,' bars cognizance of offences under Sections 172 to 188 of 'the I.P.C.,' unless initiated by a written complaint of the concerned public servant, but this embargo does not extend to distinct offences arising incidentally from the same facts. Allegations may possess a dual character, constituting contempt of public authority on one hand and distinct offences like defamation on the other, and while cognizance of the former requires compliance with Section 195 of 'the Cr.P.C.,' the latter remains prosecutable independently. However, the Court cautioned that prosecution cannot evade the statutory bar by misdescribing or relabelling the offence under other

⁵ (2005) 7 SCC 352

⁶ (1953) 1 SCC 637

provisions of 'the I.P.C.,' as such circumvention would defeat the legislative intent.

18. In **State of U.P. v. Mata Bhikh**⁷, the Hon'ble Supreme Court held that the expression "public servant concerned" under Section 195(1)(a) of 'the Cr.P.C.,' includes not only the officer who originally promulgated the order but also his successor in office, since otherwise the continuity of proceedings under provisions like Sections 133, 145 or 146 of 'the Cr.P.C.,' would be disrupted if the officer retires, is transferred, or ceases to hold office. The Court clarified that the successor lawfully steps into the shoes of the original officer and is fully competent to lodge a complaint against disobedience of such orders. Consequently, the High Court's contrary view was set aside, affirming that successors in office fall squarely within the ambit of "public servant concerned."

19. In **State of Karnataka v. Hemareddy**⁸, the Hon'ble Supreme Court held that when, in the course of the same transaction, offences requiring a court's complaint under Section 195(1)(b) of 'the Cr.P.C.,' and other offences not covered by that provision are committed together, it is impermissible to split them up and sustain prosecution only for the latter. The statutory bar under Section 195 of 'the Cr.P.C.,' must be applied in its entirety, ensuring that proceedings cannot be upheld selectively by isolating offences outside its scope.

⁷ (1994) 4 SCC 95

⁸ (1981) 2 SCC 185

20. In **Ajaib Singh v. Joginder Singh**⁹, the Hon'ble Supreme Court rejected the contention that only the Magistrate before whom the original proceedings were taken could file a complaint under Section 195(1)(b) of 'the Cr.P.C.' Referring to Section 559 of 'the Cr.P.C.', the Court held that a successor in office is fully empowered to exercise the same powers and duties as his predecessor, including filing complaints under Section 476 of 'the Cr.P.C.', for offences like perjury or false evidence committed before the predecessor. Sub-section (2) of Section 559 of 'the Cr.P.C.', merely resolves doubts about succession and does not limit the scope of sub-section (1) of Section 559 of 'the Cr.P.C.' Thus, the Court affirmed that the complaint filed by the successor Magistrate was valid and within jurisdiction.

21. In **Bandekar Bros. (P) Ltd. v. Prasad Vassudev Keni**¹⁰, the Hon'ble Apex Court reaffirmed that when, in the course of the same transaction, offences are disclosed, some requiring a court's complaint under Section 195(1)(b) of 'the Cr.P.C.' (such as fabrication of false evidence under Sections 192&193 of 'the I.P.C.,' and others not so covered (like forgery under Sections 467&471 of 'the I.P.C.,'), it is impermissible to split them up and sustain prosecution only for the latter. The statutory drill of Section 195 of 'the Cr.P.C.' must be followed in its entirety, ensuring that the bar cannot be circumvented by prosecuting under provisions outside its scope when the gravamen of the allegations squarely attracts Section 195 of 'the Cr.P.C.'

⁹ 1968 SCC OnLine SC 253

¹⁰ (2020) 20 SCC 1

22. In **Kantamaneni Ravishankar v. State of A.P.**,¹¹ a learned Single Judge of this Court held that for prosecuting disobedience of an ordinance under Section 188 of 'the I.P.C.,' a written complaint from the concerned public servant (or one duly authorized) is mandatory. Consequently, the police are incompetent to register a crime under Section 188 of 'the I.P.C.,' based on a private complaint, and any such registration stands vitiated as contrary to the settled law laid down by the Hon'ble Supreme Court and other High Courts.

23. This Court, in **Kollu Ravindra v. State of A.P.**¹² has categorically held that a complaint invoking offences under Sections 172 to 188 of 'the I.P.C.,' must emanate from a "public servant" as envisaged under Sections 190 and 200 of 'the Cr.P.C.' In the absence of such a statutory complaint, the learned Magistrate is divested of the competence to take cognizance of the alleged offence. The bar contained in Section 195 of 'the Cr.P.C.,' therefore, operates as a clear embargo on the assumption of cognizance based merely on a police report.

24. This Court, further also held in **Kanakamedala Ravindra Kumar v. State of A.P.**¹³ that when the allegations arise out of a single, indivisible transaction giving rise to multiple offences, one falling squarely within the ambit of Section 195 of 'the Cr.P.C.,' and another ostensibly outside its sweep, such offences, being inextricably interwoven, cannot be artificially

¹¹2020 SCC OnLine AP 726

¹²2025 SCC OnLine AP 3870

¹³Criminal Petition No: 987/2020

segregated to bypass the statutory embargo. The Court has categorically held that mere deletion of Section 188 of 'the I.P.C.,' from the charge sheet does not efface the bar, for the factual substratum of the alleged act continues to be integrally connected with the disobedience of a promulgated order, thereby mandating a complaint by the competent public servant as required under Section 195(1)(a) of 'the Cr.P.C.'

25. Considering the law laid down by the Hon'ble Apex Court in **C. Muniappan** *supra*, the learned Magistrate was not authorised to take cognizance in view of the embargo under Section 195 of 'the Cr.P.C.'

26. On a careful consideration of the record and the settled legal position, this Court is persuaded that the prosecution against the Petitioner is vitiated by a fundamental jurisdictional infirmity. The gravamen of the charge under Section 188 of 'the I.P.C.,' suffers from the statutory embargo contained in Section 195 of 'the Cr.P.C.,' which mandates a written complaint of the competent public servant as a condition precedent for cognizance. In view of the foregoing, the prosecution initiated against the Petitioner under Sections 123 and 125 of the Representation of the People Act, 1951 is wholly unsustainable in law. Section 123 of 'the Act.,' merely defines "corrupt practices" for adjudication in election disputes and does not create any penal offence warranting criminal prosecution. Further, the allegations on record do not disclose the essential ingredients of Section 125 of 'the Act.,' as there is no specific or deliberate act attributed to the petitioner promoting enmity or

hatred on prohibited grounds. The complaint is vague, omnibus and devoid of material particulars. Hence, continuation of the criminal proceedings amounts to abuse of process of law and is liable to be quashed. The Hon'ble Supreme Court has consistently held in **C. Muniappansupra, Govind Mehta supra, Surjit Singh supra, Raj Singh supra, Vengadachalam supra, Basir-Ul-Huq supra, Mata Bhikh supra, Hemareddy supra, Ajaib Singh supra, and Bandekar Bros supra** that the bar under Section 195 of 'the Cr.P.C.,' is absolute, cannot be circumvented by mislabelling offences, and extends to indivisible transactions where offences are interwoven.

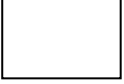
27. Considering these binding precedents, continuation of proceedings against the Petitioner would amount to an abuse of process and a travesty of justice. Therefore, the proceedings against the Petitioner/Accused in STC.No.15 of 2026 on the file of the learned Judicial First Class Magistrate, Udayagiri, SPSR Nellore District, are liable to be interfered and quashed.

28. In the result, the Criminal Petition is allowed. Accordingly, the proceedings in STC.No.15 of 2026 on the file of the learned Judicial First Class Magistrate, Udayagiri, SPSR Nellore District, are quashed.

As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

Dr. Y. LAKSHMANA RAO,J

Date :07.05.2026
KMS



THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 3325 of 2026

Date: 07.05.2026

KMS