



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 30 OF 2026

BETWEEN:

1. SHANMUGAM P S
AGED 58 YEARS
R/A NO. NO. 10,
THOTADA GUDADA HALLI,
NAGASANDRA,
BANGALORE - 560 073.
2. APPANNA,
AGED ABOUT 55 YEARS
S/O P.A. POOVAIAH,
R/A NO. 5, 20TH CROSS,
TC PALYA MAIN, SRI MV NAGAR,
MUNESHWARA NAGAR,
DOORAVANINAGAR,
BENGALURU - 560 016
3. SHAMANNA REDDY,
AGED ABOUT 81 YEARS
S/O CHIKKABBAIAH REDDY,
R/AT 9TH MAIN ROAD,
SHYAMANNA REDDY LAYOUT,
HONGASANDRA,
BOMMANAHALLI,
BENGALURU - 560 068.

...PETITIONERS

(BY MS. AVANI CHOKSHI, ADVOCATE)





AND:

STATE OF KARNATAKA
BY UPPARPETE POLICE STATION
REPRESENTED BY
THE SPECIAL PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.

...RESPONDENT

(BY SRI. CHANNAPPA ERAPPA, HCGP)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO 1. SET ASIDE THE ORDER DTD 25.09.2021 TAKING COGNIZANCE OF OFFENCES P/U/S 269 OF IPC 1860, AND SEC. 51(b) OF DISASTER MANAGEMENT ACT, 2005 AGAINST THE PETITIONERS AND THE PROCEEDINGS IN C.C.NO.25509/2021 PENDING ON THE FILE OF THE LRD. V ADDL. CHIEF METROPOLITAN MAGISTRATE, BANGALORE, PRODUCED HEREWITH AS ANNEXURE-B AND ETC.

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



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

ORAL ORDER

Heard the learned counsel, Ms. Avani Chokshi, appearing for the petitioners, Sri. Channappa Erappa, learned HCGP appearing for the respondent and have perused the material on record.

2. The petitioners are before this Court, seeking the following prayer:

- "(i) SET ASIDE order dated 25.09.2021 taking cognizance of offences under Section 269 of the Indian Penal Code, 1860, and Section 51(b) of Disaster Management Act, 2005 against the Petitioners and the proceedings in C.C. No.25509/2021 pending on the file of the Learned V Additional Chief Metropolitan Magistrate, Bangalore, produced herewith as ANNEXURE-B; and,
- (ii) Consequently, quash the Complaint filed against the Petitioners by the Respondent dated 20.09.2021 pending before the Learned V Additional Chief Metropolitan Magistrate, Bangalore, produced herewith as Annexure-C; and,
- (iii) Pass such other orders/ directions as this Hon'ble Court may deem fit in the facts and circumstances of the case, in the interests of justice."

3. Learned counsel appearing for the petitioners would submit that the issue in the *lis* stands covered by the judgment



rendered by this Court in W.P.No.34537/2024 disposed on 18.12.2024, wherein it has held as follows:

"Petitioners are before this Court calling in question proceedings in C.C.No.1383 of 2021, registered for offence punishable under section 188 of the IPC and under section 51(b) of the Disaster Management Act, 2005.

2. Heard the learned counsel Smt Sruti Chaganti appearing for petitioners and Sri Rangaswamy R, learned High Court Government Pleader appearing for respondent/State.

3. Both the learned counsel would submit that the issue in the *lis* stands answered by the judgments rendered by this Court in Crl.P.No.3432 of 2023 disposed on 07-07-2023 and in Crl.P.No.5053 of 2023 disposed on 28-07-2023, *qua* interpretation of Section 51(b) of the Disaster Management Act and Section 188 of the IPC.

4. This Court in **Crl.P.No.3432 of 2023** disposed on **07-07-2023** has held as follows:

"....

7. The afore-narrated facts are not in dispute. The issue lies in a narrow compass, as to whether the learned Magistrate could have taken cognizance of the offence under Section 51(b) of the Act. To consider the said issue, it is germane to notice certain provisions of the Act. Section 51 of the Act deals with punishment for obstruction and reads as follows:

"51. Punishment for obstruction, etc.—(1) Whoever, without reasonable cause— —(1) Whoever, without reasonable cause—"

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central



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Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years. notes on clauses Clauses 51 to 58 (Secs. 51 to 58) seeks to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

(Emphasis supplied)

Section 51(b) of the Act directs that whoever would refuse to comply with any direction given by or on behalf of the Government, as the case would be, become an offence under the Act.

8. Section 60 of the Act deals with cognizance for the offences and reads as follows:

"60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by—

- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or*
- (b) any person who has given notice of not less than thirty days in the*



manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid."

(Emphasis supplied)

Section 60(b) mandates that, if cognizance is to be taken for an offence punishable under Section 51 of the Act, a person who is arrayed as accused should have been given a notice not less than 30 days in the manner prescribed.

9. The prescription is in terms of the Rules. Rules, i.e. the Disaster Management (notice of alleged offence) Rules, 2007. Rule 3 of the said Rules, reads as follows:

"3. Notice of alleged offence and intention to make a complaint .—A notice under clause (b) of section 60 of the Act by a person, of the alleged offence and his intention to make a complaint shall be delivered to, or left at, the office of one of the following—

(a) in the case of the Central Government, except where the complaint relates to a railway, the Secretary incharge of the concerned Ministry or the Department in that Government;

(b) in the case of the Central Government where the complaint relates to a railway, the General Manager of that railway;

(c) in the case of State Government, the Secretary incharge of the concerned Department in that Government;

(d) in the case of the National Authority, the Secretary or, if there is no Secretary, the Additional Secretary, of the National Authority;

(e) in the case of a State Authority, the Chief Executive Officer of the State Authority;

(f) in the case of a District Authority, the Chief Executive Officer of the State Authority."

(Emphasis supplied)



The Rule mandates that a notice under Section 60(b) of the Act by any person should be issued on/of his intention to make a complaint, and that shall be delivered to the person against whom complaint is said to be made. The manner of issuance and delivery are narrated from (a) to (f). Therefore, there is prescription under the Rules as to the action to be taken under Section 60(b) of the Act.

10. On the bedrock of the aforesaid mandate under the Act and the Rules, the case at hand requires to be noticed. The incident takes place on 04.01.2021, around 10.30 a.m. and the crime is registered on 04.01.2021 for the offence punishable under Section 51(b) of the Act and Section 188 of the IPC. The learned Magistrate takes cognizance of the offence on 25.01.2022. The order of the learned Magistrate taking cognizance reads as follows:

"Perused the compliant. Complainant is a Public Servant. Hence, recording of Sworn Statement is dispensed with as contemplated u/s.200 of Cr.P.C. cognizance is taken for the offence punishable u/s.51(b) of NDA Act.

I have perused the documents produced by the complainant and considered the allegation made in the complaint. The allegation are supported by documents and if allegations are not denied the same will lead to the conviction of the accused.

There are sufficient materials to issue process against the accused. Accordingly, I proceed to pass the following order:

ORDER

- 1. Register the case as CC**
- 2. Issue summons against accused no.1 to 9 for the offence punishable u/s. 51(b) of NDA Act.**
- 3. Call on: 26.02.2021."**

(Emphasis added)

The learned Magistrate prior to taking cognizance ought to have noticed the rigor of Section 60(b) as to whether a notice has been issued to the accused in terms of Rule 3 of the said Rules (*supra*). Ostensibly, the mandate under the Act or the Rules is not followed by the complainant and it is not even noticed by the



learned Magistrate prior to the taking of cognizance. It is therefore, contrary to law.

11. In the light of it being contrary to law, is resultantly rendered unsustainable. The unsustainability of it, would lead to its obliteration."

Further in Crl.P.No.5053 of 2023 disposed on 28-07-2023, this Court holds as follows:

"....

5. The complainant in the case at hand is the Police Sub-inspector of the Jurisdictional Police and on such complaint, cognizance for offence under Section 188 of IPC could not have been taken in the teeth of Section 195 of Cr.P.C. Therefore, on this solitary ground that a complaint is registered by the Police Sub-inspector and not by the competent Authority, who had issued certain orders that would become ingredients of Section 188 of the IPC, the allegation and the consequent taking of cognizance would tumble down."

5. In view of the issue in the *lis* standing completely covered by the judgments rendered by this Court *supra* and for the reasons mentioned therein, I pass the following:

ORDER

- (i) Writ Petition is allowed.
- (ii) Proceedings in C.C.No.1383 of 2021 pending before the VI Additional Chief Metropolitan Magistrate, Bengaluru stands quashed *qua* the petitioners."

In the light of the order passed by this Court (*supra*) and for the reasons aforementioned, the following:

ORDER

- (i) The Criminal Petition is allowed.



- (ii) The proceedings in C.C.No.25509/2021 pending before the V Additional Chief Metropolitan Magistrate, Bangalore, stand quashed, *qua* these petitioners.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SJK
List No.: 1 Sl No.: 4