



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 2100 OF 2026 (GM-RES)

BETWEEN:

KALEEM ULLA KHAN
S/O KALEEL KHAN
AGED ABOUT 52 YEARS
R/O N.R.MOHALLA
MYSURU CITY – 570 002.

...PETITIONER

(BY SRI SOMASHEKAR KASHIMATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH NARASIMHARAJU P.S.
MYSURU PIN CODE – 570 024

REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.

2. MANJU K. B.,
AGED ABOUT 39 YEARS
OCCUPATION: POLICE CONSTABLE
NO.1028, R/O NARASIMHARAJU POLICE STATION
MYRURU – 570 024

...RESPONDENTS

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





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASHING THE ENTIRE PROCEEDINGS AS PER ANNEXURE D IN C.C.NO. 37466/2022 ON THE FILE OF III ADDITIONAL CIVIL JUDGE (J.D) AND J.M.F.C, MYSURU, WHEREIN THE PETITIONER HAS BEEN ARRIVED AS ACCUSED.NO.4, AND CHARGESHEETED BY RESPONDENT.NO.1 FOR THE OFFENCES PUNISHABLE UNDER SECTION U/S 188 I.P.C, U/S 51 OF THE DISASTER MANAGEMENT ACT, 2005 AND ALSO OFFENCE U/S 5 (4) OF THE KARNATAKA EPIDEMIC DISEASE ACT, 2020, AS PER ANNEXURE C.

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

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

ORAL ORDER

The petitioner is before the Court seeking the following prayers:

- "i. A writ in the nature of certiorari or any other appropriate writ or quashing the entire proceedings as per ANNEXURE-D in C.C.No.37466/2022 on the file of III Additional Civil Judge (J.D) & J.M.F.C., Mysuru, wherein the Petitioner has been arrived as Accused No.4 and Chargesheeted by Respondent No.1 for the offences punishable under section u/s 188 I.P.C., u/s 5(4) of the Karnataka Epidemic Disease Act, 2020, as per Annexure - C, to secure the ends of justice insofar as petitioner is concerned.
- ii. Any other appropriate writ or direction, order as the Hon'ble court may be deems fit in the circumstances of the case."



2. Heard Sri. Somashekar Kashimath, learned counsel appearing for the petitioner and Sri. B.N. Jagadeesha, learned Additional Special Public Prosecutor appearing for the respondents.

3. The petitioner/accused No.4 along with others gets embroiled in a crime in Crime No.8/2022 for offences punishable under Section 188 of the Indian Penal Code, 1860, Section 51 of the Disaster Management Act, 2005 and Sections 5(4) of the Karnataka Epidemic Diseases Act, 2020. The Police after investigation filed a charge sheet. The filing of the charge sheet has driven the petitioner to this Court in the subject petition. The issue in the *lis* need not detain this Court for long or delve deep into the matter. This Court in the case of ***D.K. SHIVAKUMAR & Ors Vs. STATE OF KARNATAKA & ANOTHER*** in CrI.P.No.5726/2022 disposed on 16.06.2023 has held as follows:

"3. Facts, in brief, as projected by the prosecution, are as follows:

The petitioners are all Members of the Karnataka Pradesh Congress Committee ('KPCC' for short), the State unit of the Indian National Congress. The petitioners led by the President of the KPCC, accused No.1 announced that a padayatra would be undertaken in order to demand implementation of Mekedatu Project



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for the benefit of the citizens of the State of Karnataka, in particular the residents of Bangalore City. It is for the said purpose, the padayatra was said to be undertaken by the KPCC from 09-01-2022 till 19-01-2022. A complaint comes to be registered on 12-01-2022 alleging that the petitioners have not taken requisite permission as the permission sought was refused by the District Magistrate in terms of his endorsement dated 06.01.2022. Notwithstanding this, padayatra was conducted. The Police after investigation filed a charge sheet in C.C.No.8717 of 2022. Identical crime was registered in which the charge sheet was also filed by the Police against accused No.1 herein, the President of the KPCC. The offences alleged therein are the ones punishable under Section 5(3A) of the Act, which is the offence alleged against the petitioners in the case at hand. This Court in Criminal Petition No.3328 of 2023 decided on 16-06-2023 interpreting the offence under Section 5(3A) of the Act has held as follows:

"7. The issue lies in a narrow compass. What triggers registration of the crime is a rally that was held by the Congress party, the President of which is the petitioner. On 10-01-2022, when the rally was in its motion, the President i.e., the petitioner between 11.30 a.m. and 12.30 p.m. visits Vishwodaya High School. The children of the school came out of their classes and posed for a picture with the President. This incident becomes a crime in Crime No.3 of 2022 for the afore-quoted offences. What is alleged against the petitioner is, violation of the provisions of the Karnataka Epidemic Diseases Act and Section 75 of the Act. The violation is in particular to Section 5(3A) of the Karnataka Epidemic Diseases Act and Section 75 of the Act. Therefore, it becomes germane to notice those provisions of law. Section 5 of the Karnataka Epidemic Diseases Act reads as follows:

"5. Prohibition of Contravention or obstruction of Public Servant.—(1) No person, institution or company shall contravene or disobey any of the provisions of Section 4, rules, regulation or order made under this Act.



(2) No person shall obstruct any officer or any public servant while acting or purporting to act or discharging any duty in pursuance to any provisions of this Act, rules, regulations or orders made there under.

(3) No person shall indulge in any act of violence against a public servant or cause any damage or loss to any public or private property during an epidemic.

(3-A) whoever contravenes the provisions of sub-section (1) shall be punished with such fine as may be prescribed in rules or in regulations, which may extend to fifty thousand rupees or with imprisonment for a term which may extend up to three months or with both.

(4) Whoever contravenes any of the provisions of sub-section (2) or (3) shall on conviction be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(5) Whoever, while committing an act of violence against a public servant, causes grievous hurt as defined in Section 320 of Indian Penal Code, 1860 (Act 45 of 1860) to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees."

(Emphasis supplied)



Section 5(3A) mandates that whoever contravenes sub-section (1) shall be punished in terms of sub-section (3A). Sub-section (1) concerns that any person, institution or company contravening or disobeying any provisions of Section 4, Rules or Regulations made under the Act would become an offence and the offence would become punishable under sub-section (3A).

8. Therefore, it becomes germane to notice Section 4 of the Karnataka Epidemic Diseases Act as the contravention of Section 4 would result in an offence under Section 5. Section 4 of the Karnataka Epidemic Diseases Act reads as follows:

"4. Power to take special measures and specify regulations as to epidemic disease.—(1) When at any time the Government is satisfied that the State or any part thereof is visited by or threatened with an outbreak of any epidemic disease, the Government may take such measures, as it deems necessary for the purpose, by notification in the Official Gazette specify such temporary regulations or orders to be observed by the public or by any person or class of persons so as to prevent the outbreak of such disease or the spread thereof and require or empower Deputy Commissioner and/or Municipal Commissioners to exercise such powers and duties as may be specified in the said regulations or orders.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Government may take measures and specify regulations,—

(a) to prohibit any usage or act which the Government considers sufficient to spread or transmit epidemic diseases from person to person in any



gathering, celebration, worship or other such activities within the State;

- (b) to inspect the persons entering the State by air, rail, road, sea or any other means or in quarantine or in isolation, in hospital, temporary accommodation, home or otherwise of persons suspected of being infected with any such disease by the officers authorized in the regulation or orders;
- (c) to seal State or district borders for such period as may be deemed necessary;
- (d) to impose restrictions on the operation of public and private transport;
- (e) to prescribe social distancing norms;
- (f) to restrict or prohibit congregation of persons in public places and religious institutions;
- (g) to regulate or restrict the functioning of offices, Government and Private and educational institutions in the State;
- (h) to impose prohibition or restrictions on the functioning of shops and commercial establishments, factories, workshops and godowns;
- (i) to restrict duration of services in essential or emergency services such as banks, media, health care, food supply, electricity, water, fuel, etc.,;
- (j) to restrict social, political, sports, entertainment, academic, cultural or religious functions or gatherings; and



- (k) such other measures as may be necessary for the regulation and prevention of epidemic diseases as decided by the Government.”

Section 4 mandates that in order to take special measures and specify regulations as to epidemic disease, the Government by a notification in the Official Gazette specify such temporary regulations or orders to be observed by the public or by any person or class of persons so as to prevent the outbreak of such disease. Therefore, the fulcrum of Section 4 is issuance of a notification in the Official Gazette notifying temporary regulations or orders. It is after such notification under Section 4, if a person contravenes or disobeys those Regulations so notified, it would become an offence under Section 5 for contravention of Regulations notified under Section 4.

9. It is admitted fact that no notification is issued by the State Government under Section 4 of the Karnataka Epidemic Diseases Act. If there is no notification issued under Section 4, an offence under Section 5 cannot be laid against any person as there is no regulation that a person would contravene as contravention of the Regulations cannot be imaginary. Therefore, the very offence alleged against the petitioner was fundamentally flawed.

10. The other offence alleged is under Section 75 of the Act. Section 75 of the Act reads as follows:

“75. Punishment for cruelty to child.—Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with



imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases:

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees:

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees."

Section 75 makes it an offence if the person who is in-charge of the child or has control over the child assaults, abandons, abuses, exposes or willfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause the child unnecessary mental or physical suffering shall become punishable for a term which may extend upto 3 years.

11. The fact that leads to the said allegation is that, the petitioner posed for a picture with the children at Vishwodaya High School, Kanakapura Taluk. The children were neither under the care or



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protection of the petitioner nor was he in-charge of the children. The children come out of the classes for the picture and the matter ends there. The petitioner did not have any control or in-charge over the children. The very offence is loosely laid against the petitioner, much less to say he is alleged of assault, abandoning, abusing or exposing or neglecting the children. The aforesaid facts cannot even lead to the alleged offences against the petitioner.

12. The Police have also filed a charge sheet in the matter alleging that Government has notified a Standard Operating Procedure during Covid-19 on 04-01-2022, and therefore, there has been violation of the provisions of the Karnataka Epidemic Diseases Act, 2020. The very summary of the charge sheet clearly indicates that it is laid on imaginary lines. A trivial act which does not contain any of the ingredients of the afore-quoted offences, is laid against the petitioner. A perusal at the summary of the charge sheet would indicate the reason behind filing of the charge sheet. The summary insofar as such indication reads as follows:

“ಕರ್ನಾಟಕ ಸರ್ಕಾರವು ಕೋವಿಡ್-19 ಸಾಂಕ್ರಮಿಕ ರೋಗ ಹರಡುವುದನ್ನು ತಡಗಟ್ಟುವ ಸಲುವಾಗಿ ಹೊರಡಿಸಿದ್ದ RD/158/TNR/2020 Date 04/01/2022 ಕೋವಿಡ್-19 ಮಾರ್ಗಸೂಚಿಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ಮಕ್ಕಳುಗಳಿಂದ “ನಮ್ಮ ನೀರು, ನಮ್ಮ ಹಕ್ಕು” ಎಂಬ ಘೋಷಣೆಯನ್ನು ಕೂಗಿಸಿ, ಮಕ್ಕಳನ್ನು ರಾಜಕೀಯವಾಗಿ ಪ್ರೇರಪಿತಗೊಳ್ಳುವಂತೆ ಮಾಡಿ, ಸರ್ಕಾರಿ ಹೊರಡಿಸಿರುವ RD/158/TNR/2020 Date 04/01/2022 ಕೋವಿಡ್-19 ಮಾರ್ಗಸೂಚಿಯನ್ನು ಉಲ್ಲಂಘಿಸಿರುವುದು ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.”

The petitioner appears to have made the children to eco with him “ನಮ್ಮ ನೀರು, ನಮ್ಮ ಹಕ್ಕು”. This is said to be politically influencing the children of the High School who are below 15 years of age. Therefore, none of the allegations made against the petitioner are even present in the case at hand and if only for the reason that charge sheet is filed against the petitioner, further proceedings are



permitted to continue it would become an abuse of the process of law and result in miscarriage of justice."

4. In the aforesaid order, this Court holding that the allegation of violation of the Act against accused No.1 herein who was the accused therein was not proved has allowed the petition. The said finding rendered would cover the issue in the case at hand in all its fours insofar as it pertains to the Act. The other offence alleged are all for formation of unlawful assembly as would obtain under Section 143 and 149 or 141 of the IPC. If the foundation of the allegation is under the provisions of the Act and if that cannot be laid against the petitioners, the offences under the IPC, which are an offshoot of the offences under the Act cannot also be laid. Therefore, for the reasons rendered in Criminal Petition No.3328 of 2023, apart from reasons rendered on all other issues in the case at hand, the petition deserves to succeed.

5. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Proceedings in Criminal Case No.8717 of 2022 pending before the 42nd Additional Chief Metropolitan Magistrate, Bengaluru arising out Crime No.13 of 2022 of Ramanagara Rural Police Station stand quashed."

In the light of the answer in favour of those accused, who had participated in the protest from Mekedatu to Bangalore is allowed and the subject petition deserves to succeed.

4. For the aforesaid reasons, the following:



ORDER

- (i) The writ petition is ***allowed***.
- (ii) Proceedings in Criminal Case No.37466/2022 pending before the III Additional Civil Judge (Jr. Dn.) and JMFC, Mysuru arising out of Crime No.8 of 2022 of Narasimharaja Police Station stand quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

JY
List No.: 2 Sl No.: 57