



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 5689 OF 2026 (GM-RES)

BETWEEN:

SRI. YUSUF SHARIFF @ D BABU
AGED ABOUT 57 YEARS,
S/O DASTHAGIR SHARIFF,
R/AT NO. 22/1, MILLER TANK BUND ROAD,
KAVERIYAPPA LAYOUT,
BENGALURU-560052.

...PETITIONER

(BY SRI. BIPIN HEGDE, ADVOCATE A/W
SRI. GAURAV N, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
THROUGH HIGH GROUNDS POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001
2. SRI. SHIVAKUMAR K.,
AGED ABOUT 50 YEARS,
R/AT ASSISTANT RETURNING OFFICER,
CHICKPET ASSEMBLY CONSTITUENCY,
BENGALURU.

...RESPONDENTS

(BY SMT. SOWMYA R., HCGP FOR R1)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO:

- (A) QUASH FIR DATED 09.05.2023, BEARING CR.NO.0101/2023, FOR THE ALLEGED OFFENCES PUNISHABLE U/S 171 (E) OF THE INDIAN PENAL CODE, 1860 AND ALSO UNDER SECTION 123(1) OF THE REPRESENTATION OF PEOPLE S ACT, 1951, IN SO FAR AS THE PRESENT PETITIONER IS CONCERNED, PRESENTLY PENDING ON THE FILE OF THE II ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU. A COPY OF THE FIR DATED.09.05.2023, IS ANNEXED HERETO AS ANNEXURE-A.
- (B) TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER ORDER, DIRECTION OR APPROPRIATE RELIEF / RELIEF S TO QUASH COMPLAINT DATED 08.05.2023, IN CR.NO.0101/2023, FOR THE ALLEGED OFFENCES PUNISHABLE U/S 171 (E) OF THE OF THE INDIAN PENAL CODE, 1860 AND ALSO UNDER SECTION 123(1) REPRESENTATION OF PEOPLE'S ACT, 1951, IN SO FAR AS THE PRESENT PETITIONER IS CONCERNED, PRESENTLY PENDING ON THE FILE OF THE II ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU. A COPY OF THE COMPLAINT DATED.08.05.2023, IS ANNEXED HERETO AS ANNEXURE-B.
- (C) C) TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER ORDER, DIRECTION OR APPROPRIATE RELIEF / RELIEF S TO QUASH CHARGE SHEET DATED.09.11.2023, FOR THE ALLEGED OFFENCES PUNISHABLE U/S 171 (E) OF THE INDIAN PENAL CODE, 1860 AND ALSO UNDER SECTION 123(1) OF THE



REPRESENTATION OF PEOPLE'S ACT, 1951, IN SO FAR AS THE PRESENT PETITIONER IS CONCERNED, PRESENTLY PENDING ON THE FILE OF THE II ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU. A COPY OF THE CHARGE SHEET DATED.09.11.2023, IS PRODUCED HERETO ANNEXURE-C.

- (D) TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER ORDER, DIRECTION OR APPROPRIATE RELIEF/RELIEF'S TO QUASH THE ORDER DATED.19.12.2023 PASSED BY THE II ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU IN CC 32256 / 2020, TAKING COGNIZANCE OF THE OFFENSES WHICH ARE DEFINED UNDER SECTION 171E OF THE IPC AND ALSO UNDER SECTION 123(1) OF THE REPRESENTATION OF PEOPLES ACT, AS AGAINST THE PETITIONER / ACCUSED NO.1 HEREIN. A COPY OF THE IMPUGNED ORDER IS PRODUCED AS PART OF THE ENTIRE ORDER SHEET MAINTAINED IN THE CASE IN C.C NO. 32256/2020, WHICH IS PRESENTLY PENDING ON THE V ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU IS PRODUCED HERETO AS ANNEXURE - D.
- (E) TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER ORDER, DIRECTION OR APPROPRIATE RELIEF / RELIEF'S TO QUASH THE ORDER DATED 09.05.2023 IN CR. NO. 01/01/2023, REGISTERED AS C.C. NO. 32256 / 2023, PRESENTLY PENDING ON THE FILE OF THE II ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, IN SO FAR AS THE PRESENT PETITIONER IS CONCERNED. A COPY OF THE ENTIRE ORDER SHEET



MAINTAINED IN THE CASE IN C.C. NO. 32256 / 2023, WHICH IS PRESENTLY PENDING ON THE FILE OF THE II ADDITIONAL CHIEF METROPOLITAN MAGISTRATE BENGALURU, IS ANNEXED HERETO AS ANNEXURE-D.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

1. The petitioner is before this Court seeking the following prayer:

- (a) "quash the FIR dated 09.05.2023, bearing Cr.No.0101/2023, for the alleged offences punishable u/s 171(E) of the Indian Penal Code, 1860 and also under Section 123(1) of the Representation Of People's Act, 1951, insofar as the present petitioner is concerned, presently pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru, a copy of the FIR dated.09.05.2023, is annexed hereto as Annexure-A.
- (b) to issue a writ in the nature of certiorari or any other order, direction or appropriate relief / reliefs to quash complaint dated 08.05.2023, in Cr.No.0101/2023, for the alleged offences punishable u/s 171 (e) of the of the Indian Penal Code, 1860 and also under Section 123(1) of the Representation of People's Act, 1951, insofar as the present petitioner is concerned, presently pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru, a copy of the complaint dated 08.05.2023, is annexed hereto as Annexure-B.



- (c) to issue a writ in the nature of certiorari or any other order, direction or appropriate relief / reliefs to quash charge sheet dated 09.11.2023, for the alleged offences punishable u/s 171(E) of the Indian Penal Code, 1860 and also under Section 123(1) of the Representation of People's Act, 1951, insofar as the present petitioner is concerned, presently pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru. a copy of the charge sheet dated 09.11.2023, is produced hereto Annexure-C.
- (d) to issue a writ in the nature of certiorari or any other order, direction or appropriate relief/relief's to quash the order dated.19.12.2023 passed by the II Addl. Chief Metropolitan Magistrate, Bengaluru in CC No.32256 / 2020, taking cognizance of the offenses which are defined under Section 171E of the IPC and also under Section 123(1) of the Representation of Peoples Act, as against the petitioner / accused No.1 herein, a copy of the impugned order is produced as part of the entire order sheet maintained in the case in C.C No.32256/2020, which is presently pending on the V Addl. Chief Metropolitan Magistrate, Bengaluru is produced hereto as Annexure - D.
- (e) to issue a writ in the nature of certiorari or any other order, direction or appropriate relief / relief's to quash the order dated 09.05.2023 in Cr. No.01/01/2023, registered as C.C. No.32256 / 2023, presently pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru, insofar as the present petitioner is concerned, a copy of the entire order sheet maintained in the case in C.C. No.32256 / 2023, which is presently pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru, is annexed hereto as Annexure-D"

2. Heard the learned counsel Sri. Bipin Hegde along with Sri. Gaurav N, appearing for the petitioner and the learned



High Court Government Pleader, Smt. Soumya R. appearing for the respondents.

3. Facts, in brief, germane are as follows:

The 2nd respondent is the complainant - the Assistant Returning Officer. The petitioner is said to have distributed cheques to secure votes in the Karnataka State Assembly Elections, 2023. Therefore, a complaint springs against the petitioner for the offence punishable under Section 171E of the IPC and Section 123(1) of the Representation of Peoples Act, 1951. The police conduct investigation and file a chargesheet. The filing of the chargesheet is what has driven the petitioner to the Court in the subject petition.

4. Learned counsel appearing for the petitioner would submit that the issue in the *lis* stands completely answered by the judgment rendered by this Court in the case of **M. MALURU ES EN KRISHNAIAH SETTY v. STATE OF KARNATAKA**¹, wherein it is held as follows:

" "

¹ 2025 SCC OnLine Kar 19647



9. The issue whether the informant has to go to the learned Magistrate to seek permission or the Station House Officer need not be gone into, as in the opinion of the Court, the offence under Section 171E is not even attracted in the case at hand. Section 171E of the IPC reads as follows:

"171-E. Punishment for bribery.—

Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision."

For an offence to become punishable under Section 171E of the IPC which is the punishment for bribery, the ingredients as necessary under Section 171B are required to be present. Section 171B of the IPC reads as follows:

"171-B. Bribery.—(1) Whoever—

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a



gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward."

Section 171B mandates that any person who gives gratification to any person with an object of inducing any other person to exercise electoral right or any person accepts either for himself or for other person any gratification is said to be committing the offence of bribe.

10. What is found in the case at hand is not distribution of ration by the petitioner but stock of ration. This, unless the petitioner is caught distributing or anybody else receiving such distribution of ration, would not attract the ingredients of Section 171B of the IPC for it to become an offence under Section 171E of the IPC.

11. This Court in the case of *Shri Yuvaraj v. The State of Karnataka*, held as follows:

".....

3. The learned counsel for the petitioner would submit that the issue in the case at hand stands covered by the judgment rendered by the Co-ordinate Bench of this Court in CrI.P. No. 1560/2024, disposed of on 05.04.2024, wherein the co-ordinate Bench of this Court has held as follows:

"2. Learned counsel for the Petitioner vehemently argues that the proceedings are liable to be voided because:

(i) What all has been alleged in the FIR/Charge Sheet do not disclose commission of any offence and the ingredients of the alleged offences are lacking; therefore, the matter would fit into one of the postulates in STATE of HARYANA v. CHOWDHARY BHAJAN LAL, 1992 Supp (1) SCC 335 : AIR 1992 SC 604 which has been reiterated in M/S NEEHARIKA INFRASTRUCTURES PVT. LTD. v. State of Maharashtra, 2021 SCC OnLine SC 315.



(ii) The order of the learned Magistrate which grants permission which occurs at page No. 33 of the PETITION is as cryptic as can be and further it does not disclose any application of mind nor it is reasoned.

3. Learned Addl. SPP appearing for the Respondent – State vehemently opposes the Petition contending that by looking to the entire material of charge Sheet filed by the police after investigation, it cannot be said that the proceedings are unsustainable. If petitioner faces the trial, no prejudice would be caused to her and that the same would do justice to herself and to the public interest. Even otherwise, petitioner can tap the provisions for discharge or the like, at the hands of learned Magistrate himself, instead of pressing this petition. So contending, he seeks dismissal of the Writ Petition.

4. Having heard the learned counsel for the parties and having perused the Petition papers, this Court is inclined to grant indulgence in the matter for the following reasons:

(a) Chapter IXA came to be added to the statute book namely Penal Code, 1860 by way of amendment, with intent to bring purity in election process. It seeks to make punishable under the ordinary penal law, bribery, undue influence & personation, and certain other malpractices at elections not only to the Legislative bodies, but also to membership of public authorities where the law prescribes a method of election. Further, it intends to debar persons guilty of malpractices from holding positions of public responsibility for a specific period. This chapter has to be read along with the relevant provisions of the Representation of People Act, 1951 as it contains additional penalties for certain offences, e.g., sections 171E to 171F of this Code. Thus a conviction under Section 171E or Section 171F of IPC amounts to a disqualification u/s. 8 of RP Act, 1951. This chapter comprises of both a dictionary clause and penal provisions.

(b) The offence of bribery is defined under Section 171B of IPC as under:



"171B. Bribery—

(1) Whoever—(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right; commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward"

This section defines bribery as an electoral offence, primarily as the giving or accepting of a gratification either as a motive or as a reward to any person, either to induce him to stand, or not to stand as, or to withdraw from being a candidate or to vote or refrain from voting at an election. In terms of sub-section (2) inter alia it includes offers or agreements to offer and attempt to procure a gratification. "Gratification" is explained in Section 161 as not being restricted to only pecuniary things. Section 171-B(1)(i) provides that if gratification is given to any person inducing him or any other person to exercise any electoral right, it amounts to commission of the offence of bribery.



(c) *In the above backdrop, let me examine the penal provision namely Section 171(E) of IPC which reads as under:*

"Punishment for bribery.—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both: Provided that bribery by treating shall be punished with fine only."

In order to fit into the definition of 'bribery' the requirement is that there should be a person who gives or at least offers to give any gratification as a reward for exercising the electoral right or for having exercised such a right, by another person. Thus, there should be minimum two persons involved in the act, namely one who bribes or offers to bribe and the other who is bribed or offered bribe.

(d) Added to the above, it is not the case of respondents that the alleged act has been done by the person concerned for and on behalf of the petitioner herein. To put it succinctly, what emerges from the complaint is that a particular person was carrying the money and that the same has been seized since it was suspected to be used for electoral offences. All that does not amount to the offence of bribery, even if the allegations are taken at their face value, and therefore there is no scope for invoking Section 171(E) of IPC, as rightly submitted by learned counsel for the petitioner.

(e) *The next allegation in the complaint relates to the offence punishable under Section 133 of the Representation of People Act, 1951. The same reads as under:*

"Penalty for illegal hiring or procuring of conveyance at elections.—If any person is guilty of any such corrupt practice as is specified in clause (5) of Section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine."



The above penal provision in turn refers to a corrupt practice as is specified inter alia in clause 5 of Section 123 at or in connection with an election. Section 123 deals with certain acts as corrupt practices. Sub-section(5) specifies one of them, with the following text:

"(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person [with the consent of a candidate or his election agent] [or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself the members of his family or his agent) to or from any polling station provided under Section 25 or a place fixed under subsection (1) of Section 29 for the poll"

Employing the vehicle or vessel as contemplated in the above provision, is a sine qua non for the invocation of Section 133. It is nobody's case that something of the kind exists in the allegations leveled against the person concerned and more particularly, the petitioner herein. In the absence of ingredients as specified in Section 123(5), one would be miles away from the precincts of Section 133 of 1951 Act.

In the above circumstances, this petition succeeds. The proceedings in Crime No. 52/2023 of Nipani Town Police Station, now pending in CC No. 2990/2023 on the file of learned JMFC, Nipani, for the offences punishable under sections 120(1) & 133 of Representation of People Act, 1951 and also for the offence punishable under Section 171(E) of Penal Code, 1860 are hereby quashed. Petitioner is set free of the subject case."

4. In the light of the order passed by the Co-ordinate Bench of this Court (*supra*) and for the reasons aforementioned, the following:

ORDER

(i) The Criminal Petition is allowed.

(ii) The proceedings in C.C. No. 2990/2023 pending on the file of the Additional Civil Judge



and J.M.F.C., Court, Nipani, *qua* the petitioner,
stand quashed."

(Emphasis in original)

12. In light of the issue standing covered by the order passed by this Court (*supra*) and on finding no ingredient of Section 171E of IPC being attracted in the case at hand, the crime registered against the petitioner is rendered unsustainable. The unsustainability, leads to its obliteration."

(Emphasis supplied)

In the light of the issue standing covered by the judgment of this Court quoted *supra* and on finding no ingredient of Section 171E of the IPC *inter alia* being attracted in the case at hand, I deem it appropriate to obliterate the proceedings against the petitioner.

5. For the aforesaid reasons, the following:

ORDER

- (i) Writ petition is **allowed**.
- (ii) The proceedings in C.C. No.32256/2023 pending on the file of the II Additional Chief Metropolitan Magistrate, Bengaluru stand quashed *qua* the petitioner.

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