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**IN THE COURT OF LXXXI ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (CCH-82)**

:PRESENT:

**Sri.Shivaprasad K.B., B.Com, LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)**
(Special Court exclusively to deal with criminal cases
related to former and elected MPs/MLAs in the State of Karnataka)

Dated this the 29th day of August, 2026

CRL.R.P. NO.442/2025

**REVISION
PETITIONER/
COMPLAINANT :**

Mr. Kiran.N
S/o R.Nagaraj,
Aged about 37 years,
Advocate,
No.628/14(2), 9th Main Road,
4th Cross, 2nd Block, BSK 1st
Stage, Next to Navarathna
Gold Palace,
Bangalore – 560 050.

(Party in person)

V/s

**RESPONDENT/
ACCUSED:**

Mr. Siddaramaiah
S/o Late. Siddaramegowda,
Aged about 76 years,

Hon'ble Chief Minister,
Government of Karnataka,
No.235, 2nd Floor,
Vidhanasoudha,
Bangalore – 560 001.
Presently residing at
'Anugraha', Kumarakrupa,
Bangalore – 560 001.

Permanent resident of No.32,
Siddaramana Hundi,
Varuna Hobli, Mysore Taluk,
Mysore – 570 010.

***(By Sri. Vikram Huyilagol,
learned Senior Counsel for Sri.
Shathabhisha Shivanna,
Advocate)***

ORDER

The Revision Petitioner has preferred this revision under Sec.438 of BNSS, assailing the order dated 17.09.2025 passed by learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru in PCR No.3876/2025, whereby the learned ACJM rejected the complaint filed by the revision petitioner under Sec.223 of BNSS.

2. The revision petitioner is complainant and the respondent herein is the accused in PCR No.3876/2025 before the learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru.

3. The revision petitioner presented the complaint under Sec.223 of BNSS in PCR No.3876/2025 before learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru on 19.03.2025 against the respondent for the offences punishable under Sec.299, 352, 356(2) of BNSS, alleging that the respondent elected representative, made derogatory remarks against Rashtriya Swayamsevaka Sangha and Bhajaranga Dal at the Karnataka Legislative Assembly on 17.03.2025. Feeling insulted and defamed by the said remarks, the petitioner claiming to be the member of Rashtriya

Swayamsevaka Sangha preferred the said complaint for the aforesaid offences before the learned ACJM.

4. The learned ACJM recorded the sworn statement of revision petitioner, issued the pre-cognizance notice to respondent. He appeared through his counsel and filed the detailed objection statement and after hearing both the parties, learned ACJM passed the order dated 17.09.2025 rejecting the complaint filed by the revision petitioner.

5. Being aggrieved by the aforesaid order dated 17.09.2025, the revision petitioner has preferred this Criminal Revision on the following grounds:

i. The learned Magistrate has not considered that the document produced at the pre-cognizance stage are enough to hold the revision petitioner as an aggrieved person to file the complaint;

ii. The learned ACJM ought to have taken the cognizance for the offences against the accused as the revision petitioner made out a prima-facie case;

iii. The learned ACJM acted contrary to the object of Sec.223(1) by conducting the mini trial and expressing the opinion on evidentiary value of the documents submitted by the petitioner;

iv. The learned ACJM failed to appreciate that mini trial or delving into the factual defences cannot be permitted at the pre-cognizance stage.

Thus, with other formal grounds, the revision petitioner prays to call for the records and on examination, set-aside the aforesaid order passed in PCR No.3876/2025 by the learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru.

6. Pursuant to the notice, the respondent entered appearance through his counsel and filed the detailed objection statement.

7. Secured the records of learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru.

8. Heard Petitioner-Kiran N., and Sri.Vikram Huyilagol, learned Senior Counsel on behalf of learned counsel for the respondent. The Petitioner filed the memo with copy of order dated 27.06.2026 passed in PCR No.18986/2025 by learned ACJM. He also filed the synopsis of the case.

9. The learned Senior Counsel relied upon following authorities;

- (2024) 5 SCC 629 (Sita Soren Vs. Union of India);
- (2010) 5 SCC 600 (S.Khushboo Vs. Kanniammal and another);
- 2025 SCC Online Kar 18 (C.T.Ravi Vs. State by Bagewadi P.S. represented by State Public Prosecutor and others);
- 2023 Livelaw (SC) 624/2023 INSC 683 (Mohammad Wajid and another Vs. State of UP and others);
- (2021)17 SCC 318/ 2021 SCC Online SC 510 (State of Kerala Vs. K.Ajith and others).

10. Upon hearing both parties and perusal of records, the points that arise for my consideration are:

Point No.1: Whether the order dated 17.09.2025 passed in PCR No.3876/2025 on the file of learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru, rejecting the complaint is illegal, improper and incorrect and liable for interference by this revisional court?

Point No.2: What order?

11. My answer to the above points are as follows:

Point No.1: In the Negative;

Point No.2: As per final order

for the following:

REASONS

POINT No.1:

12. At the outset, the revision petitioner laid the private complaint under Sec.223 r/w Sec.2(1)(e) of BNSS against the respondent for the offences

punishable under Sec.299, 352, 356(2) of BNS before the learned XLII ACJM, (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka).

13. The revision petitioner, in his complaint submitted that he is an Advocate, actively practicing at the various Courts in Karnataka and he born and brought up at Gavipuram Guttahalli, Bengaluru. Further, he submitted that during his early schooling, he used to attend the drill and exercise activities at Sai Ranga Playground being carried by the Rashtriya Swayamsevaka Sangha. He submitted the said Organization is a national volunteer union or national volunteer corps, founded on 27.09.1925 with object to provide character training and instill Hindu discipline to unite Hindu community and establish Hindu Rashtra. Further, he submitted that the said organization aims to provide the ideology of Hinduthva and strengthen Hindu community and to promote and uphold Indian culture

and its civilization values. Further, he also submitted that the said organization founded on the premise of Hindu supremacy and it engages religious awareness, community outreach, disaster relief, cultural preservation through its Shakhas and service initiatives; further, it focuses education, rural development and promotion of Indian traditions and emphasis youth empowerment through leadership programmes and skill development initiatives, and the said organization is a divine organization which created for the bright future of poor students.

13.1. Further, the petitioner in his complaint submitted that he is an aluminous of Rashthrotthana Parishath, managed by the Rashtriya Swayamsevaka Sangha. He further submitted that on 17.03.2025, the respondent a elected representative, holding highest constitutional position at the State Legislature in the State of Karnataka, at Vidhana Soudha,

Bengaluru, while admiring the governance in curbing the crime rate, accused that RSS and Bhajaranga Dala organization are the perpetrators of the crime. He submitted that the respondent uttered ಅಪರಾಧಗಳನ್ನು ಮಾಡುತ್ತಿರುವವರೇ ನೀವು ಜಾಸ್ತಿಯಾಗಿ, ಆರ್.ಎಸ್.ಎಸ್. ನವರು, ಬಜರಂಗದಳದವರು and said statement went through social media and other electronic media. Further, the petitioner submitted that he viewed the said video on 18.03.2025 and such utterances hurt his sentiments and the attribution referred RSS as crime organization and its volunteers as criminals in the State. Therefore, he approached the Hanumantha Nagara Police Station to lodge the complaint against the respondent on 18.03.2025.

13.2. As the grievance of the petitioner was not redressed at the said Police Station, he approached the Dy. Commissioner of Police, Bengaluru South Division and Commissioner of Police, Bengaluru City by way of

complaint dated 18.03.2025. Despite complaint to the higher Police officials, no action has been taken against the respondent. Thus, he submitted that he approached learned ACJM by filing the aforesaid private complaint.

14. The learned ACJM took-up the matter for inquiry, recorded the sworn statements of the revision petitioner and issued the pre-cognizance notice as per proviso to Sec.223 of BNSS. The respondent appeared and filed detailed objection statement and after hearing both the sides, the learned ACJM rejected the complaint, by the order dated 17.09.2025, which is impugned herein.

15. During the course of arguments, the petitioner vehemently contended that Sec.2(26) of BNS defines 'person'. The Rashtriya Swayamsevaka Sangha though not registered, is a collection of persons and therefore, said organization is within the meaning of 'person' defined under BNS. Further, he submitted that Explanation-2 of Sec.356 of IPC also indicates the

association or collection of individuals could present the complaint for defamation against such body of individuals.

16. The respondent does not dispute or deny that the Rashtriya Swayamsevaka Sangha is a body of persons as defined under Sec.2(26) of the BNS. It is seen from the objection statement of the respondent filed before the learned ACJM, at Para-18, he categorically submitted that Rashtriya Swayamsevaka Sangha is an organization. During the course of arguments, the petitioner relied upon the decision in **Crl.MC No.6574/2014 dated 07.01.2022 (The Mathrubhoomi Illustrated weekly and others Vs. P.Gopalan Kutti and others)** passed by the Hon'ble High Court of Kerala, wherein the Hon'ble High Court considering the Explanation-2 of Sec.499 IPC examined the status of Rashtriya Swayamsevaka Sangha and held that the said Sangha is a definite and identified body in the light of the decisions of G.Narasimhan, G.Kasthuri and

K.Gopalan Vs. T.V.Chokkappa reported in (1972) 2 SCC 680 and Tekchand Guptha Vs. R.K.Karanjia and others reported in 1967 SCC Online Allahabad 282. The learned Senior Counsel does not deny or dispute the legal position with regard to status of Rashtriya Swayamsevaka Sangha. Thus, it is quiet clear that the Rashtriya Swayamsevaka Sangha is a body of persons defined under Sec.2(26) of BNS and a association or collection of persons for the purpose of Explanation-2 of Sec.356 of BNS.

17. On considering the rival contentions of the parties, it is not in dispute that on 17.03.2025, at the Karnataka Legislative Assembly, while the respondent was the Chief Minister of the State, during his reply to motion of thanks moved in respect of the address delivered by His Excellency, the Hon'ble Governor, Government of Karnataka, stated that;

ಅಪರಾಧಗಳನ್ನೆ ಮಾಡುತ್ತಿರುವವರೇ ನೀವು ಜಾಸ್ತಿಯಾಗಿ
ಆರ್.ಎಸ್.ಎಸ್. ನವರು, ಬಜರಂಗದಳದವರು.

18. The learned Senior Counsel for the respondent Sri.Vikram Huyilagol, strenuously contended that the said statement made at the floor of the House by Chief Minister of the State during reply to motion of thanks moved in respect of the address delivered by His Excellency, the Hon'ble Governor, Government of Karnataka and Article 194(2) of Indian Constitution protects the speeches made at the Legislature and as such, the speech of respondent is immune from questioning before the Court of Law. If the free speech and expression at the floor of the House curtailed, it would defeat the fundamental right and mandate of the Constitution. He relied upon the decisions reported in (2024) 5 SCC 629 (*Sita Soren Vs. Union of India*), (2021) 17 SCC 318 (*State of Kerala Vs. Ajith and others*) and 2025 SCC Online Kar 18 (*C.T.Ravi Vs. State by Bagewadi Police Station represented by State Public Prosecutor and others*) to contend that the Constitutional Courts distinguished the criminal act

and the right of legislator to free speech and expression in the light of underlying object under Article 105 and 194 of Constitution.

19. The petitioner contends that the alleged speech would not cover under Article 194(2) of Constitution of India. He further contends that the allegations made against Rashtriya Swayamsevaka Sangha at the floor of the House are not at all necessary and beyond the scope of the functions of the legislature. Further, the said speech was nothing to do with the legislative functions of the Government and such sarcastic allegation of respondent would amounts offence of criminal defamation. Taking through the principles evolved in the decisions of '*State of Kerala Vs. Ajith and others*', '*Sita Soren Vs. Union of India*', '*C.T.Ravi Vs. State by Bagewadi P.S. and Others*', he contended that the statements of respondent have no nexus to the legislative functions and the courts have not approved the criminal act of legislator inside the

House would be protected under Article 194(2) of Constitution of India. Therefore, the respondent would not entitle for immunity under Article 194(2) of Indian Constitution.

20. As there is dispute as to applicability of privilege and immunity, it is incumbent upon the court to examine the applicability of privilege and immunity under Article 194(2) of Indian Constitution in this case, in the light of the aforesaid decisions rendered. Article 194(1) and (2) of Indian Constitution reads as follows;

194. Powers, privileges, etc., of the House of Legislatures and of the members and committees thereof

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a

House of such a Legislature of any report, paper, votes or proceedings.

(3) XXXX

(4) XXXX

21. In the decision of **State of Kerala Vs. K.Ajith and others reported in (2021) 17 SCC 318** relied by both the sides, it was the case that the members of the Legislative Assembly belonged to opposition party disrupted the presentation of budget, climbed over Speaker's dais, damaged the furniture and fixtures, caused loss of Rs.2,20,093/-. In this regard, criminal case registered and charge sheet submitted against the accused. The Public Prosecutor moved an application under Sec.321 of Cr.P.C which came to be dismissed by CJM, affirmed by the Hon'ble High Court. The Hon'ble Apex Court, elaborately examined the privilege and immunity of MLAs under Art.194(2) of Constitution, at Para-36, 63 to 66 observed that;

36. From the above cases it is evident that a person committing a criminal offence within the

precincts of the House does not hold an absolute privilege. Instead, he would possess a qualified privilege, and would receive the immunity *only if the action bears nexus to the effective participation of the member in the House.*

* * * *

63.Tracing the history of the privileges and immunities enjoyed by members of the House of Commons, Erskine May makes a doctrinal division of the position in the UK into various phases. However, the stand out feature which emerges from the privileges and immunities of the members of the House of Commons is the absence of an immunity from the application of criminal law. This jurisprudential development began in Elliot (supra), was developed by Stephen J. in Bradlaugh, and cemented by the UK Supreme Court in Chaytor.

64.There is a valid rationale for this position. The purpose of bestowing privileges and immunities to elected members of the legislature is to enable them to perform their functions without hindrance, fear or favour. This has been emphasised by the three-Judge Bench in *Lokayukta* [*Lokayukta v. State of M.P.*, (2014) 4 SCC 473]. The oath of office which members of Parliament and of the State Legislature have to subscribe requires them to

- (i) bear true faith and allegiance to the Constitution of India as by law established;
- (ii) uphold the sovereignty and integrity of India;
- and
- (iii) faithfully discharge the duty upon which they are about to enter.

It is to create an environment in which they can perform their functions and discharge their

duties freely that the Constitution recognises privileges and immunities. These privileges bear a functional relationship to the discharge of the functions of a legislator. They are not a mark of status which makes legislators stand on an unequal pedestal. It is of significance that though Article 19(1)(a) expressly recognises the right to freedom of speech and expression as inhering in every citizen, both Articles 105(1) and 194(1) emphasise that “there shall be freedom of speech” in Parliament and in the legislature of a State. In essence, Article 19(1)(a) recognises an individual right to the freedom of speech and expression as vested in all citizens. Articles 105(1) and 194(1) speak about the freedom of speech in Parliament and State Legislatures and in that context must necessarily encompass the creation of an environment in which free speech can be exercised within their precincts. The recognition that there shall be freedom of speech in Parliament and the State Legislatures underlines the need to ensure the existence of conditions in which elected representatives can perform their duties and functions effectively. Those duties and functions are as much a matter of duty and trust as they are of a right inhering in the representatives who are chosen by the people. We miss the wood for the trees if we focus on rights without the corresponding duties cast upon elected public representatives.

65. Privileges and immunities are not gateways to claim exemptions from the general law of the land, particularly as in this case, the criminal law which governs the action of every citizen. To claim an exemption from the application of criminal law would be to betray the trust which

is impressed on the character of elected representatives as the makers and enactors of the law. The entire foundation upon which the application for withdrawal under Section 321 was moved by the Public Prosecutor is based on a fundamental misconception of the constitutional provisions contained in Article 194. The Public Prosecutor seems to have been impressed by the existence of privileges and immunities which would stand in the way of the prosecution. Such an understanding betrays the constitutional provision and proceeds on a misconception that elected members of the legislature stand above the general application of criminal law.

66. The reliance placed by the appellants on *P.V. Narasimha Rao* [*P.V. Narasimha Rao v. State*, (1998) 4 SCC 626 : 1998 SCC (Cri) 1108] to argue that the action of the respondent-accused inside the House was a form of “protest” which bears a close nexus to the freedom of speech, and thus is covered by Article 194(2) is unsatisfactory. The majority in *P.V. Narasimha Rao* [*P.V. Narasimha Rao v. State*, (1998) 4 SCC 626 : 1998 SCC (Cri) 1108] dealt with the interpretation of the phrase “in respect of” and gave it a wide import. At the same time, the majority observed that there must be a nexus between the act or incident (which in that case was the act of bribery in the context of the votes cast on a motion of no-confidence) and the freedom of speech or to vote. It was emphasised that the bribe was given to manipulate the votes of the MPs and thus, it bore a close nexus to the freedom protected under Article 105(2). The case however, did not deal with the ambit of the privilege of “freedom of speech” provided to the

members of the House. It was in *Lokayukta* that a three-Judge Bench of this Court laid down the law for the identification of the content of the privileges. It was held that the members shall only possess such privileges that are *essential* for undertaking their *legislative functions*. An alleged act of destruction of public property within the House by the members to lodge their protest against the presentation of the Budget cannot be regarded as essential for exercising their legislative functions. The actions of the members have trodden past the line of constitutional means, and is thus not covered by the privileges guaranteed under the Constitution.

22. Further, the seven Judges Bench of the Hon'ble Apex Court in the case of **Sita Soren Vs. Union of India** reported in (2024) 5 SCC 629, examined the question whether a legislator who receives a bribe to cast a vote in a certain direction or speak about certain issue be protected by parliamentary privilege, and the Hon'ble Apex Court disapproving parliamentary privilege for taking bribe to caste vote, at para 85 to 89, 95, 96 held as under;

85. The framers of the Constitution intended to establish a responsible, responsive and representative democracy. The value and importance of such a democracy weighed heavily on the framers of the Constitution given

the history of an oppressive colonial government to which India had been subjected. The history of parliamentary democracy shows that the colonial government denied India a responsible government where initially Indians were kept out of legislating on laws which would be enforced on its diverse social tapestry. Even when Indians were allowed in legislatures, a responsive government which could be accountable to the people in a meaningful way was yet a distant reality in the colonial period. The ability of the legislature in turn to scrutinize the actions of the executive was effaced and despite the statutory guarantee of freedom of speech for members of the House in the Government of India Act 1919, the guarantee remained illusory to the extent that many subjects were restricted from being discussed in the legislatures.

86. In that sense, the foundations of a deliberative democracy premised on responsibility, responsiveness, and representation sought to ensure that the executive government of the day is elected by and responsible to the Parliament or Legislative Assemblies which comprise of elected representatives. These representatives would be able to express their views on behalf of the citizens and ensure that the government lends ear to their aspirations, complaints and grievances. This aspect of the functioning of the House is essential to sustain a meaningful democracy. This necessitates that members of the House be able to attend the House and thereafter speak their minds without fear of being harassed by the executive or any other person or body on the basis of their actions as members of the House in the exercise of their duties. In the absence of this feature Parliament and the state legislatures would lose the essence of their representative character in a democratic polity.

87. The privileges enshrined under Article 105 and Article 194 of the Constitution are of the widest amplitude but to the extent that they serve the aims for which they have been granted. The framers of the Constitution would not have intended to grant to the legislatures those rights which may not serve any purpose for the proper functioning of the House. The privileges of the members of the House individually bear a functional relationship to the ability of the House to collectively fulfil its functioning and vindicate its authority and dignity. In other words, these freedoms are necessary to be in furtherance of fertilizing a deliberative, critical, and responsive democracy. In *State of Kerala V. K.Ajith*, one of us (DY Chandrachud, J) held that a member of the legislature, the opposition included, has a right to protest on the floor of the legislature. However, the said right guaranteed under Article 105(1) of the Constitution would not exclude the application of ordinary criminal law against acts not in direct exercise of the duties of the individual as a member of the House. This Court held that the Constitution recognises privileges and immunities to create an environment in which members of the House can perform their functions and discharge their duties freely. These privileges bear a functional relationship to the discharge of the functions of a legislator. They are not a mark of status which makes legislators stand on an unequal pedestal.

88. MN Kaul and SL Shakdher have in their celebrated work on the Practice and Procedure of Parliament endorsed this view by stating that:

"In modern times, parliamentary privilege has to be viewed from a different angle than in the earlier days of the struggle of Parliament against the executive authority. Privilege at that time was

regarded as a protection of the members of Parliament against an executive authority not responsible to Parliament. The entire background in which privileges of Parliament are now viewed has changed because the Executive is now responsible to Parliament. The foundation upon which they rest is the maintenance of the dignity and independence of the House and of its members.” (emphasis supplied)

The privileges enjoyed by members of the House are tethered intrinsically to the functioning of the House collectively. A House of Parliament or Legislature functions through the collective will of its individual members. These members acting as constituents of the House may not claim any privilege or immunity unconnected with the working of the entire House.

89. While some cherished freedoms exercised individually by members of the House, including the freedom of speech, have been undeniably understood to be essential to the functioning of the House as a whole, other exercises such as damaging public property or committing violence are not and cannot be deemed to have immunity. The privileges and immunities enshrined in Articles 105 and 194 of the Constitution with respect to Houses of Parliament and the Legislatures, their members and committees, respectively belong to the House collectively. The exercise of the privileges individually by members must be tested on the anvil of whether it is tethered to the healthy and essential functioning of the House.

* * * *

95. The necessity test for ascertaining parliamentary privileges has struck deep roots in the Indian context. We do not need to explore the well-established jurisprudence on the necessity test in other jurisdictions beyond the above exposition of Indian jurisprudence on the

subject at this juncture. The evolution of parliamentary privileges in various parliamentary jurisdictions has shown a consistent pattern that when an issue involving privileges arises, the test applied is whether the privilege claimed is essential and necessary to the orderly functioning of the House or its committee. We may also note that the burden of satisfying that a privilege exists and that it is necessary for the House to collectively discharge its function lies with the person or body claiming the privilege. The Houses of Parliament or Legislatures, and the committees are not islands which act as enclaves shielding those inside from the application of ordinary laws. The lawmakers are subject to the same law that the law-making body enacts for the people it governs and claims to represent.

96. We therefore hold that the assertion of a privilege by an individual member of Parliament or Legislature would be governed by a twofold test. First, the privilege claimed has to be tethered to the collective functioning of the House, and second, its necessity must bear a functional relationship to the discharge of the essential duties of a legislator.

23. Further examining the interpretation of ‘in respect to’ rendered by the Constitution Bench in the case of *‘P.V.Narasimha Rao Vs. CBI’* reported in (1998) 4 SCC 626, the Apex court held that:

105. In PV Narasimha Rao the majority judgment interprets the phrase “in respect of” as having a broad meaning and referring to anything that bears a nexus or connection with the vote given or speech made. It therefore

concluded that a bribe given to purchase the vote of a member of Parliament was immune from prosecution under Clause (2) of Article 105. By this logic, the majority judgment concluded that a bribe-accepting member who did not comply with the quid pro quo was not immune from prosecution as his actions ceased to have a nexus with his vote. As we have noted above, the interpretation of a phrase which appears in a provision cannot be interpreted in a way that does violence to the object of the provision. The majority in PV Narasimha Rao has taken the object of Article 105 to be that members of Parliament must have the widest protection under the law to be able to perform their function in the House. This understanding of the provision is overbroad and presumptive of enhanced privileges translating to better functioning of members of the House.

106. Privileges are not an end in themselves in a Parliamentary form of government as the majority has understood them to be. A member of Parliament or of the Legislature is immune in the performance of their functions in the House or a committee thereof from being prosecuted because the speech given or vote cast is functionally related to their performance as members of the legislature. The claim of a member to this immunity is its vital connect with the functioning of the House or committee. The reason why the freedom of speech and to vote have been guaranteed in Parliament is because without that Parliament or the legislature cannot function. Therefore, the extent of privilege exercisable by a member individually must satisfy the two fold test laid down in Part F of this judgment namely its tether to the collective functioning of the House and its necessity.

107. The words “in respect of” in Clause (2) of Article 105 apply to the phrase “anything said or any vote given,” and in the latter part to a

publication by or with the authority of the House. We may not interpret the words “anything” or “any” without reading the operative word on which it applies i.e. “said” and “vote given” respectively. The words “anything said” and “any vote given” apply to an action which has been taken by a person who has the right to speak or vote in the House or a committee thereof. This means that a member or person must have exercised their right to speak or abstained from speaking inside the House or committee when the occasion arose. Similarly, a person or member must have exercised their option of voting in favour, against, or in abstention to claim immunity under Articles 105(2) and 194(2).

108. The words “anything” and “any” when read with their respective operative words mean that a member may claim immunity to say as they feel and vote in a direction that they desire on any matter before the House. These are absolutely outside the scope of interference by the courts. The wide meaning of “anything” and “any” read with their companion words connotes actions of speech or voting inside the House or committee which are absolute. The phrase “in respect of” applies to the collective phrase “anything said or any vote given.” The words “in respect of” means arising out of or bearing a clear relation to. This may not be overbroad or be interpreted to mean anything which may have even a remote connection with the speech or vote given. We, therefore, cannot concur with the majority judgment in PV Narasimha Rao.

24. In the case of **C.T.Ravi Vs. State by Bagewadi Police Station represented by State Public Prosecutor and others reported in 2025 SCC Online Kar 18, Hon’ble High**

Court of Karnataka examined the application of Article 194(2) of Constitution of India in the light of aforesaid decisions of Hon'ble Apex Court and at Para-18 and 19 held as under;

18. The Apex Court holds that unlike the House of Commons in United Kingdom, India does not have ancient and undoubted privileges; an individual member of the legislature cannot assert a claim of privilege on a charge of bribery in connection with a vote or speech; the expression 'anything' and 'any' as obtaining in Articles 105(2) and 194(2) must be read in the context of accompanying expressions in the said articles. The words 'in respect of' and 'arising out of' are clear that they are in relation to the proceedings of the House and cannot be interpreted to mean anything which may have a remote connection with the speech; the potential of misuse against individual members of the Legislature is neither enhanced or diminished by prosecuting a member. The unmistakable inference that can be drawn from the elucidations of the Apex Court are that, judicial review of what transpires in the parliament or the legislature in certain circumstances is available. A member of the legislature cannot claim that he cannot be prosecuted and if prosecuted it would bring down the dignity of the House. The Apex Court was of the view that the offence of bribery by a Legislator inside the house can be prosecuted. The reference was thus answered.

19. On a blend of the elucidation of law by the Apex Court and other High Courts as quoted hereinabove, the unmistakable inference is that, judicial review is permissible even in cases where the parliamentary privilege is projected,

but not in all circumstances, only on a case to case basis. The Apex Court has clearly held that Article 194 of the Constitution does not bestow absolute immunity for the actions done by Legislators, if those actions have no nexus to the functioning of the House. Therefore, the test laid down is, nexus to the functioning of the House or nexus to the transaction of business of the House. Therefore, there is no absolute immunity that the Legislators can claim nor absolute bar of interference by the Constitutional Courts. Spoken word in the Legislature by the Legislators would ordinarily come within the immunity under Article 194(2) of the Constitution of India, but not in certain exceptional circumstances. The subject issue is answered accordingly. XXXX

25. Thus, from the aforesaid decisions, it emerges that, Immunity and Privilege under Article 194(2) of Indian Constitution is not absolute, and in order to claim the privilege, the privilege claimed must have connection to the functioning of the House and its necessity must bear a functional relationship to the discharge of the essential duties of the legislator. There must be nexus to the functioning of the house or the transaction of business of the house to claim the privilege under Article 194(2) of Indian Constitution.

26. In the present case, the revision petitioner/ complainant complains about the statement of respondent ಅಪರಾಧಗಳನ್ನು ಮಾಡುತ್ತಿರುವವರೇ ನೀವು ಜಾಸ್ತಿಯಾಗಿ ಆರ್.ಎಸ್.ಎಸ್. ನವರು, ಬಜರಂಗದಳದವರು made at the floor of the House and sought to take cognizance of the offences under Sec.299, 352 and 356(2) of BNSS. He produced the videograph in Compact Disc at Ex.C5 during his sworn statement. On perusal of the said videograph, such videograph does not contain full speech of respondent at the State Legislature. Be that as it may.

27. The produced videograph in which part speech of respondent appearing, would indicate 3-4 sentences of speech with regard to law and order situation at the State, prior to aforesaid statement of respondent attributing towards the opposition referring the Rastriya Swayamsewaka Sangha and Bajarangadal, and strong objections by the opposition leaders for taking the name of Rastriya Swayamsevaka Sangha after the aforesaid statement and counter objections by some of the

members of ruling party. Further, it appears that during objections of opposition leaders, the respondent referred the vendetta politics and further, he refers the hate speeches to attribute against the opposition. Thus, from the materials produced, it appears that the said statement of the respondent had the relation to the law and order issue raised at the Floor of the House and therefore, as rightly contended by the learned Senior Counsel, the respondent is immune from criminal prosecution under Article 194(2) of Indian Constitution.

28. Further, it is pertinent to note that, in the case of '*State of Kerala Vs. K.Ajith and others*' supra, the Hon'ble Apex Court explaining the limitation of privileges and immunities, at para-65, observed that in order to claim an exemption from the application of criminal law would be to betray the trust which is impressed on the character of elected representatives as the makers and enactors of the law. In the referred decisions namely, *State of Kerala Vs. K.Ajith and others*,

Sita Soren Vs. Union of India, C.T.Ravi Vs. State by Bagewadi P.S. and others, the persons claimed the immunity under the Constitution, had committed the acts unconnected to the character of elected representative as legislators and discharge of legislator's essential duties. In the instant case, the respondent made the said statement during speech relating to the law and order, directing the opposition party, referring the names of Rastriya Swayamsewaka Sangha and Bajarangadal. It is seen that by such speech, the respondent has not betrayed the trust on his character, being a legislator, and his statement had the connection to the Governance matter during Legislative debate. Keeping in mind the principles evolved in the aforesaid decisions and object underlying under Article 194(1) and (2) of Indian Constitution, the respondent is protected under Art.194(2) of Indian Constitution.

29. During the course of arguments, the respondent seriously disputed the locus-standi of the

petitioner to file the complaint before the learned Magistrate for the offence of defamation by referring Sec.222 of BNSS. Sec.222(1) of BNSS reads as follows;

222. Prosecution for Defamation- (1) No Court shall take cognizance of an offence punishable under section 356 of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:

Provided that where such person is a child, or is of unsound mind or is having intellectual disability or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

30. The petitioner taking through the Ex.C1 contended that he is a member of Rashtriya Swayamsevaka Sangha and he used to participate in the activities of said Sangha. He further submitted that he used to attend the Shakhas and he is an active member of said Sangha. Further he submitted that the utterances hurts his feelings and therefore he is an aggrieved person to prosecute the case against the respondent. On the other hand, the learned Senior

Counsel seriously contended that the petitioner has not placed any evidence to show that he is a member of Rashtriya Swayamsevaka Sangha and therefore, the complaint itself is not maintainable.

31. During the course of arguments, the petitioner referring the decision rendered in Crl.MC.No.6574/2014 dated 07.01.2022 (**The Mathrubhoomi Illustrated weekly and others Vs. P.Gopalan Kutti and others**) contended that the member of Rashtriya Swayamsevaka Sangha can maintain the complaint and therefore, in the present case also his complaint is maintainable. In the referred decision, the State Secretary of the Rashtriya Swayamsevaka Sangha filed a private complaint against the petitioners therein for defamation and in the said case, there was no dispute that the complainant was the State Secretary of Rashtriya Swayamsevaka Sangha. In the case on hand, the respondent in his objections before the learned Magistrate at Para-22 categorically challenged the

locus-standi of the petitioner, denying his connection to Rashtriya Swayamsevaka Sangha. Therefore, the aforesaid decision relied by the petitioner is distinguishable on facts and cannot made applicable to the case on hand.

32. Further during the arguments the petitioner relied upon the decision rendered by Hon'ble High Court of Gujarath in **Crl.Revision Application No.521/2023 (Rahul Gandhi Vs. Poornesh Eshwarbhai Modi)** and in the said case, the petitioner therein while doing his election rally made defamatory words referring the 'Modi' Surname and affected by such words, a member of Modi community which is an identifiable class filed the complaint and the petitioner therein was convicted.

33. In the present case, the petitioner except production of Ex.C1, he has not produced any other material to show his connection with Rashtriya Swayamsevaka Sangha. As per Ex.C1, the petitioner was a participant at Rashtrotthana Adhyayana and

Research Center. It does not refer the Rashtriya Swayamsevaka Sangha. In the absence of any material to show the connection of the petitioner with Rashtriya Swayamsevaka Sangha and to prove that he is a member of Rashtriya Swayamsevaka Sangha and thereby he is aggrieved by the statement of respondent, the petitioner can not maintain the complaint for defamation. Under the said circumstances, the aforesaid decision relied by the petitioner is also distinguishable and would not applicable to the case on hand.

34. In the reply arguments, the petitioner produced the order dated 27.06.2026 passed in PCR No.18986/2025 by learned ACJM, to contend that the learned ACJM entertained the complaint of a member of Rashtriya Swayamsevaka Sangha in another case. The petitioner produced such document first time before this revisional court.

35. It is well settled that in the revision, no new evidence could be considered as the power of the revisional court is to examine the legality, propriety and correctness of the order, finding of inferior court and not otherwise. Therefore, the said new document produced in this revision can not be considered.

36. On careful perusal of the impugned order, the learned Magistrate appreciating the materials placed on record and considering the contentions raised by the petitioner and respondent, rightly observed that the respondent is protected from criminal prosecution under Article 194(2) of Constitution of India, as the said statement made during the discussion of law and order enforcement issue at the Legislature of the State and the petitioner is not an aggrieved person to present the complaint. Further, the learned ACJM appreciated the ingredients of the alleged offences and came to the conclusion that the alleged offences are *prima facie* not made out. Though the petitioner strongly urged the

statement of the respondent at the Legislature could not be protected and he is an aggrieved person to file the complaint for defamation, he could not substantiate his contentions. As the respondent is protected under Art.194(2) of Constitution of India and the petitioner is not an aggrieved person for alleged defamation, the complaint itself is not maintainable and therefore, the learned ACJM rightly rejected the complaint and order of learned ACJM does not call for interference in this revision. Resultantly, the revision fails and it deserves to be dismissed. Hence, I hold the point no.1 is in the **Negative.**

Point No.2:

37. In view of my findings on point No.1, I proceed to pass the following:

ORDER

The Criminal Revision Petition
filed by the Revision Petitioner under

Sec.438 r/w 440 of BNSS, 2023 is hereby **dismissed**.

The Order dated 17.09.2025 passed in PCR No.3876/2025 on the file of learned XLII ACJM (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru, is **confirmed**.

The office is hereby directed to send records along with copy of this order to learned XLII ACJM, (Special Court for trial of cases against sitting and former MP's and MLA's in the State of Karnataka), Bengaluru forthwith.

*(Dictated to the Stenographer Grade-I directly on the Computer, pronounced and thereafter, transcribed by him, revised and corrected by me and signed by me **29th day of August, 2026**)*

(SHIVAPRASAD K.B.)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases
related to elected former and sitting MPs/MLAs in the
State of Karnataka)