IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 14757 OF 2026 (GM-RES)
C/W
WRIT PETITION NO. 14698 OF 2026 (GM-RES)
WRIT PETITION NO. 14872 OF 2026 (GM-RES)

IN WP No. 14757/2026

BETWEEN:

SRI K.N.RAMESH
S/O K.S.NAGARAJU,
AGED ABOUT 55 YEARS,
R/O NO.17/1, 4TH MODEL HOUSE,
N.R.COLONY, BASAVANAGUDI,
BENGALURU - 560 004.

...PETITIONER

(BY SRI ASHOK HARANAHALLI, SR.ADVOCATE A/W
SRI R.HEMANTH RAJ, ADVOCATE)

AND:

Digitally signed by RAKESH S HARLAR
Location: High Court of Karnataka, Dharwad Bench

1. STATE OF KARNATAKA
BY CHIKKAMAGALURU TOWN POLICE STATION,
REPRESENTED BY HCGP,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

2. SUDHIR KUMAR MUROLLI
S/O M.HALAPPA HEGGADE,
AGED ABOUT 50 YEARS,
R/O KOPPA, CHIKKAMAGALURU DISTRICT.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I FOR R-1;
SRI UDAYA HOLLA, SR.ADVOCATE AND

SRI K.N.PHANINDRA, SR.ADVOCATE A/W
SRI ROHAN HOSMATH, SMT.H.PAVITHRA
SMT.AISHWARYA R., SRI ABHISHEK GOWDA A.H., AND
SRI GAGAN B.S., ADVOCATES FOR R-2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, PRAYING TO QUASH THE FIR IN CRIME NO. 0083/2026 DATED 03.05.2026 REGISTERED BY THE CHIKKAMAGALURU TOWN POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 465, 468, 471, 120B, 149 OF IPC AND SECTION 136 OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 ARRAIGNING THE PRESENT PETITIONER AS ACCUSED NO. 3 PENDING ON THE FILE OF PRL. CIVIL JUDGE (SR. DIV) AND CJM COURT, CHIKKAMAGALURU (PRODUCED VIDE ANNEXURE-A).

IN WP NO. 14698/2026

BETWEEN:

1. D.N.JEEVARAJA
   S/O MR.G.T.NARAYANA GOWDA,
   AGED ABOUT 61 YEARS,
   R/O NO. 23,
   DWARAMAKKI,
   BADGABAVALU VILLAGE,
   B.H.KAIMARA POST,
   NARASIMHARAJAPURA TALUK,
   CHIKKAMANGALURU - 577 134.

...PETITIONER

(BY SRI M.S.SHYAM SUNDAR, SR.ADVOCATE A/W

DR.VANDANA P.L., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY CHIKKAMAGALURU TOWN POLICE STATION
   REPRESENTED BY HCGP
   HIGH COURT OF KARNATAKA,
   BENGALURU - 560 001.

2. SUDHIR KUMAR MUROLLI
   S/O M. HALAPPA HEGGADE
   AGED ABOUT 50 YEARS
   R/O KOPPA,
   CHIKKAMAGALURU DISTRICT.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I FOR R-1;
SRI UDAYA HOLLA, SR.ADVOCATE AND
SRI K.N.PHANINDRA, SR.ADVOCATE A/W
SRI ROHAN HOSMATH, SMT.H.PAVITHRA
SMT.AISHWARYA R., SRI ABHISHEK GOWDA A.H., AND
SRI GAGAN B.S., ADVOCATES FOR R-2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, PRAYING TO A. ISSUE A WRIT OR ORDER QUASHING THE FIR IN CRIME NO. 0083/2026 DATED 03.05.2026 REGISTERED BY THE CHIKKAMAGALURU TOWN POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 465, 468, 471, 120B, 149 OF IPC AND SECTION 136 OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 ARRAIGNING THE PRESENT PETITIONER AS ACCUSED NO.2 PENDING ON THE FILE OF PRL. CIVIL JUDGE (SR. DIV) AND CJM COURT, CHIKKAMAGALURU (VIDE ANNEXURE B).

IN WP NO. 14872/2026

BETWEEN:

1. VEDAMURTHY T R
   S/O T R RAMAIAHA
   AGED ABOUT 56 YEARS
   RESIDING AT PARAMESHWARA OIL MILL
   SHIVANANDA FACTORY
   ARSIKERE, HASSAN - 573 103.

...PETITIONER

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE A/W
SRI SAMPREETH V., ADVOCATE)

AND:

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

2. SUDHIR KUMAR MUROLLI
   S/O M.HALAPPA HEGGADE
   AGED ABOUT 50 YEARS
   RESIDING AT DEEPOTHSAVA
   THILAKA ROAD, KOPPA,
   CHIKKAMAGALURU - 577 126.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I FOR R-1;
SRI UDAYA HOLLA, SR.ADVOCATE AND
SRI K.N.PHANINDRA, SR.ADVOCATE A/W
SRI ROHAN HOSMATH, SMT.H.PAVITHRA
SMT.AISHWARYA R., SRI ABHISHEK GOWDA A.H., AND
SRI GAGAN B.S., ADVOCATES FOR R-2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C.,

PRAYING TO QUASH CRIMINAL PROCEEDINGS IN THE FIR AT ANNEXURE-A DATED 03.05.2025 AND COMPLAINT AT ANNEXURE-B DATED 03.05.2025, ON 25.09.2025 PENDING ON THE FILE OF EARLIER IN THE COURT OF THE PRL. CIVIL JUDGE (SENIOR DIVISION) AND CHIKKAMAGALURU, CHIKKAMAGALURU DISTRICT NOW IN 42ND ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE (42ND ACMM) SPL. COURT OF MP/MLA IN CRIME NO. 83/2026 FOR OFFENCES PUNISHABLE UNDER SECTIONS 143, 149, 465, 468, 471, 120B IPC AND 136 REPRESENTATION OF PEOPLE ACT QUA THE PETITIONER IN THE INTEREST OF JUSTICE.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioners – accused Nos.3, 2 and 1, respectively, in these petitions challenge a solitary crime in Crime No.83 of 2026 registered for the offences punishable under Sections 143, 465, 468, 471, 120B and 149 of the IPC and Section 136 of the Representation of the People Act, 1951 ('the Act' for short). Different accused have preferred different petitions.

2. Heard **Sri Ashok Haranahalli**, learned senior counsel appearing for the petitioner in W.P.No.14757 of 2026; **Sri M.S. Shyam Sundar**, learned senior counsel appearing for the petitioner in W.P.No.14698 of 2026 and **Sri Sandesh J.**

Chouta, learned senior counsel appearing for the petitioner in W.P.No.14872 of 2026; **Sri B.N. Jagadeesha**, learned State Public Prosecutor-I appearing for respondent No.1 in all the cases and **Sri Udaya Holla** and **Sri K.N. Phanindra**, learned senior counsel appearing for respondent No.2 in all the cases.

3. Facts, in brief germane, which are common in all these petitions, are as follows:

3.1. Between 22-02-2021 and 30-06-2023, K.N. Ramesh - accused No.3/petitioner in Writ Petition No.14757 of 2026 was working as Deputy Commissioner, Electoral Registration Officer and District Election Officer in Chikkamagaluru District; D.N. Jeevaraja - accused No.2/petitioner in Writ Petition No.14698 of 2026 was one of the contesting candidates from Constituency No.123 – Sringeri Assembly Constituency; and Vedamurthy T.R. - accused No.1/petitioner in Writ Petition No.14872 of 2026 was at the relevant point of time working as Deputy Director of Horticulture, Zilla Panchayat, Chikkamagaluru during 2023 Karnataka Legislative Assembly elections and he was the Returning Officer in the said election for Constituency No.123 – Sringeri Assembly Constituency. The complainant in Crime No.83 of 2026 is one Sudhir Kumar Murolli, who is respondent No.2 in all the petitions. He is an

election agent and the authorized representative of the returned candidate one T.D. Rajegowda. The entire fulcrum of the *lis* revolves around the conduct of elections of Karnataka Legislative Assembly during the year 2023. On 10-05-2023, voting was held for the Karnataka Legislative Assembly Elections 2023. On 13-05-2023, after counting of ballots including postal ballots, Sri T.D. Rajegowda was declared to be the winning candidate by the then Returning Officer/accused No.1.

3.2. During the counting on 13-05-2023, it is said that 279 postal ballots were rejected by the then Returning Officer/accused No.1 – K.N. Ramesh. Thereafter, D.N. Jeevaraja/accused No.2 challenges the result of the election by filing an election petition before this Court in Election Petition No.20 of 2023. An application was also filed by accused No.2 seeking preservation of ballot papers, which was opposed by the returned candidate Sri T.D. Rajegowda. The election petition was preferred on 27-06-2023. On 06-04-2026, a coordinate Bench of this Court, in answer to Election Petition No.20 of 2023, directed re-verification and re-counting of 279 rejected postal ballots and consequential issuance of fresh declaration of results, if there was any change

in the vote count. It was observed that 279 postal ballots were rejected without any endorsements. Pursuant to the order passed by the coordinate Bench, the Returning Officer conducted re-verification and re-counting of all postal ballots, which resulted in D.N. Jeevaraja/accused No.2 to be declared as a successful candidate. It is the averment in the statement of objections that, on 02-05-2026, a report is drawn by the Returning Officer that while recounting votes, 157 votes in the first round which previously were in favour of Sri T.D.Rajegowda were reduced to zero. Certain postal ballots which were in favour of Sri T.D.Rajegowda had double markings in contradictory styles in different ink. This is said to have been captured in the video at the time of counting of ballots. Therefore, 267 ballots were rejected and the candidate/accused No.2 was declared to have emerged as a returned candidate in the light of recounting of votes.

3.3. The next day i.e., on 03-05-2026, the impugned complaint comes to be registered in Crime No.83 of 2026 for offences punishable as afore-quoted. The petitioners in these cases are drawn as accused Nos.3, 2 and 1, respectively. Writ petitions are immediately preferred before this Court and this Court has interdicted the investigation in the crime.

4. The learned senior counsel **Sri Ashok Haranahalli** appearing for the petitioner in Writ Petition No.14757 of 2026/accused No.3 would vehemently contend that there is a delay of 3 years in registering the complaint. The allegations pertain to counting of votes which had taken place on 13th May, 2023 whereas, the complaint comes to be registered on 03rd May, 2026. The impugned complaint is a belated attempt to reopen issues, which have attained finality. The allegations in the impugned complaint are an attempt to overreach the judgment of the coordinate Bench in the election petition. The allegations in the FIR arise out of acts performed in the official capacity during the election and the counting process. Accused No.3 is not responsible for counting of votes. It is the responsibility of the Returning Officer. Counting process has taken place on 13-05-2023 and the Returning Officer/accused No.1 had clearly endorsed that trunk No.20 in which postal ballots had been kept had not been tampered. He would submit that Rule 92 of the Conduct of Election Rules, 1961 are indicative of the fact that ballot papers were in the custody of the Returning Officer and the trunks containing ballot papers were in the custody of the Police and not the petitioner/accused No.3. Accused No.2/D.N.Jeevaraja had filed an application in the election petition seeking preservation of the ballot papers.

This is opposed by T.D.Rajegowda, the candidate and further, his agent had signed after the process of recounting of ballots. There was no allegation of tampering of postal ballots. If the petitioner/accused No.3, the Deputy Commissioner had breached his official duty, the Act ought to have been invoked and not the offence of forgery. Criminal proceedings cannot be initiated merely because the candidate is not satisfied with the result of recounting of postal ballots.

5. The learned senior counsel **Sri M.S. Shyam Sundar** appearing for the petitioner in Writ Petition No.14698 of 2026/accused No.2/Sri D.N. Jeevaraja would add to the submissions of the learned senior counsel Sri Ashok Haranahalli and would contend that the complaint ought to have been made before the Appropriate Authority. An election agent cannot file a complaint before the Police calling in question the process of counting of votes. The Police cannot entertain complaints pertaining to election dispute. The issue concerns election of a candidate as MLA and, therefore, the matter ought to have been placed before the Special Court and not the regular Court as is done in the cases at hand.

6. The learned senior counsel **Sri Sandesh J.Chouta** appearing for petitioner - accused No.1 in Writ Petition

No.14872 of 2026 carrying forward the submissions of both the learned senior counsel would vehemently contend that the entire counting process and handing over of postal ballots has taken place on 13-05-2023 as per the guidelines of the Election Commission of India. The petitioner/Returning Officer relieved himself from the election duties on 15-05-2023, after declaration of results. He is not the custodian of the postal ballots and after counting, the postal ballots were handed over to the District Election Officer and Officers who were in-charge of the strong room. There is a bar under Section 468 of the Cr.P.C. to take cognizance of the offence under Section 136 of the Act. If the offence of forgery was to be alleged against the petitioner/accused No.1, it has to be demonstrated by the prosecution that the document was falsified by him and the petitioner had forged the specimen signature. The offence under Section 136 of the Act cannot be alleged against the petitioner/accused No.1 since he cannot be alleged of falsification of any records or documents.

7. All the learned senior counsel would seek to place reliance upon certain judgments of the Apex Court or this Court, all of which would bear consideration *qua* their relevance.

8. *Contrariwise*, the learned senior counsel **Sri Udaya Holla** and **Sri K.N. Phanindra** appearing for the second respondent - complainant in all these petitions would in unison contend that there was no double marking in the postal ballots on the date of counting of votes *i.e.,* 13-05-2023. If double marking was found, the votes would have been invalidated instantly on 13-05-2023 itself. Double marking of the postal ballots was done after the process was completed on 13-05-2023 and before the process of recounting on 02-05-2026. Each postal ballot was shown to the candidate and his agent at the time of counting on 13-05-2023. The coordinate Bench's decision in the election petition pertained to 279 postal ballots only. However, the entire postal ballots were counted and it was found that 170 postal ballots, which were valid in the original counting were now double marked and therefore, had to be invalidated. The judgment in the election petition was clear as to what ought to have been done when there is a breach by the Returning Officer. The Returning Officer - Sri Gaurav Shetty had alleged that intentional tampering or interference with postal ballots would fall outside his jurisdiction and would require criminal investigation. The affidavit filed by the Election Commission of India before the Apex Court would clearly indicate multiple markings *qua* one

candidate, which would demonstrate criminal conspiracy. The matter is still at the stage of investigation. Therefore, this Court must not interfere in the issue.

9. The learned State Public Prosecutor – I **Sri B.N. Jagadeesha** would toe the lines of the learned senior counsel Sri K.N. Phanindra and Sri Udaya Holla in seeking dismissal of the petitions.

10. I have given my anxious consideration to the submissions made by the respective learned senior counsel for the petitioners and respondent No.2 and the learned State Public Prosecutor – I for the respondent No.1 - State and have perused the material on record.

11. The contention of the learned senior counsel appearing for the petitioners/accused Nos.3, 2 and 1 respectively is to the effect that Election Agent of a candidate or any other private person cannot file a private complaint invoking the offences under the provisions of the Act. It is their submission that the complainant is barred in registering a complaint relating to tampering, unauthorized handling and destruction of election documents. This submission would not be tenable in the light of the judgment of the Apex Court rendered in the case of **RAJKUMAR MADKI v. SHAILENDRA**

BELDALE[1], wherein the Apex Court was examining a complaint registered by a private person under Section 125A of the Act, which deals with filing of false affidavit and the bar under Section 195(1)(a) of the Cr.P.C. The Apex Court has held as follows:

"…. …. ….

> **11.** It is significant to note that sub-clauses (i) to (iii) of clause (a) of sub-section (1) of Section 195(1) of the Cr.P.C. impose a statutory prohibition on a court in relation to taking cognisance of offences punishable under Sections 172 to 188, IPC or of abetment of/attempt to/criminal conspiracy to commit such offences, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. It is plain that the text of clause (a) of sub-section (1) of Section 195 does not include Section 125-A of the RoP Act. Should we read into Section 195, Cr. P.C. a prohibition in respect of Section 125-A of the RoP Act also, apart from those expressly included? If indeed it were the intention of the legislature that cognizance of any offence relating to furnishing of false information by a candidate in an affidavit with intent of being elected in an election (referred to in Section 125-A of the RoP Act) could only be taken if the complainant were a public servant, the same could have been provided by an amendment of Section 195, Cr. P.C. since Section 125-A of the RoP Act is of fairly recent origin. Significantly, Section 125-A was inserted in the RoP Act with effect from 24th August, 2002, while it is noticed that Section 195, Cr. P.C. suffered an amendment thereafter in April, 2006. The legislature is presumed to be conscious of its insertion of Section 125-A in the RoP Act four years back. **It stands to reason that omission of the legislature to include Section 125-A of the RoP Act in Section 195, Cr. P.C. is deliberate and no court, in terms of the latter provision, would be barred from taking cognizance of an alleged offence under Section 125-A of the RoP Act, even on the**

[1] **2026 SCC OnLine SC 2200**

complaint lodged by a private person. This interpretation is also fortified by the absence of any provision in any enactment stipulating that a complaint in relation to an offence under Section 125-A of the RoP Act can only be lodged by a public servant as well as the ordainment in Section 125-A that the penalty it envisages is "notwithstanding anything contained in any other law for the time being in force". This means that the rigour of Section 195, Cr. P.C. would not be applicable insofar as a complaint lodged by a private person, alleging an offence under Section 125-A of the RoP Act, under Section 200, Cr. P.C., is concerned, whereby the court is urged to penalise the offender for furnishing false information in an affidavit to get elected. The High Court was, therefore, clearly in error in returning the finding that it did.

12. Having so held on a plain construction of the statutory provisions, we need not fall back on the clarifications provided by the ECI. Even though the ECI is supreme in its own sphere and has, indeed, issued guidelines/press notes based on its understanding of the statutory provisions, interpretation of statutes is primarily the task of the courts and such guidelines/press notes do not bind us.

13. In conclusion, we hold that a private complaint alleging offence committed under Section 125-A, RoP Act need not pass muster of the rigours of Section 195, Cr. P.C., as held by the High Court. If at all a complaint is lodged to harass an elected candidate or frivolous allegations are levelled therein, the laws of the country duly equip and empower the competent magistrates to pass such order(s) as they deem fit and proper commensurate with the facts and circumstances of each case."

(Emphasis supplied)

The Apex Court observes that the grievance pertaining to elections need not be made only before the Election Officer or the Election Commission, it can be a private complaint under certain circumstances. The bar under Section 195 of the

Cr.P.C. is inapplicable in cases of offences under the Act. The Apex Court also observes that if a complaint is lodged to harass an elected candidate or frivolous allegations are levelled, the laws of the Country duly equip and empower the competent Magistrates to pass such orders as they deem fit and proper commensurate with the facts and circumstance of each case. Therefore, the first submission of the learned senior counsel for the petitioners deserves to be rejected.

12. The second submission is concerning delay. The afore-narrated facts, dates and the link in the chain of events are all a matter of record. On 13-05-2023, counting of postal ballots happen and Sri T.D. Rajegowda is declared as elected or returned candidate by the then Returning Officer. 279 postal ballots were rejected during the process of counting. On 27-06-2023, D.N. Jeevaraja/accused No.2 challenges the results of the election which had declared Sri T.D. Rajegowda to be the returned candidate, before this Court in Election Petition No.20 of 2023 in which, an application was preferred by Sri D.N.Jeevaraja to preserve ballot papers. This was objected to by Sri T.D. Rajegowda, which would clearly indicate that the ballot handling and integrity was already within the knowledge of the party and was subject matter of consideration

in the election petition. The coordinate Bench in terms of its judgment dated 06.04.2026 disposed of the election petition by the following order:

> "**ISSUE NO.18**:
>
> 40. The petitioner has established that 279 postal ballots were improperly rejected as no endorsements were made by the Returning Officer indicating the reason for rejection. The election agent of the petitioner had also expressed doubts about the manner of counting the postal ballots. The Returning Officer who was examined as PW.2 admitted various lapses which are extracted while answering Issue Nos.2 and 3. Consequently, the petitioner is entitled for the alternative relief of re-counting of postal ballots of senior citizens who are 80+ years old and persons with disabilities and the Returning Officer issue a fresh declaration if there is any change in the number of votes secured by the petitioner / respondent No.1. It is made clear that if there is no change in the number of votes secured, the earlier declaration issued by the Returning Officer shall remain.
>
> For the aforesaid reasons, the following:
>
> **ORDER**
>
> (i) The Election Petition is **allowed in part**.
>
> (ii) The Returning Officer is directed to re-verify 279 postal ballots that were rejected. While re-verifying the 279 rejected postal ballots, he shall strictly comply with guideline 15.14.7 of the Hand Book for Returning Officer, 2023 and also ascertain whether the rejected postal ballots suffered from any substantial defect. After re-verification as stated above, if any rejected votes do not suffer from any substantial defect, they shall be included in recounting and the Returning Officer shall recount all the postal ballots and issue a fresh declaration only if there is any change in the number of votes secured by the petitioner or respondent No.1.
>
> (iii) This shall be complied within a period of two weeks from the date of receipt of a copy of this Order.

(iv) I.A. No.4/2024, which is filed by the petitioner for securing the postal ballots boxes, does not survive for consideration and the same is disposed off.

(iv) Registry is directed to forward a copy of this order to the following forthwith through speed post as well as email:

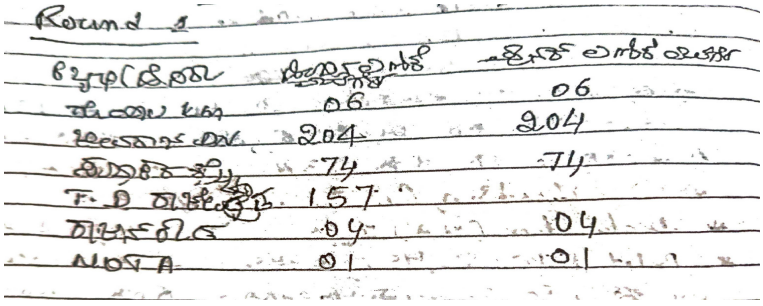
(a) Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110001.

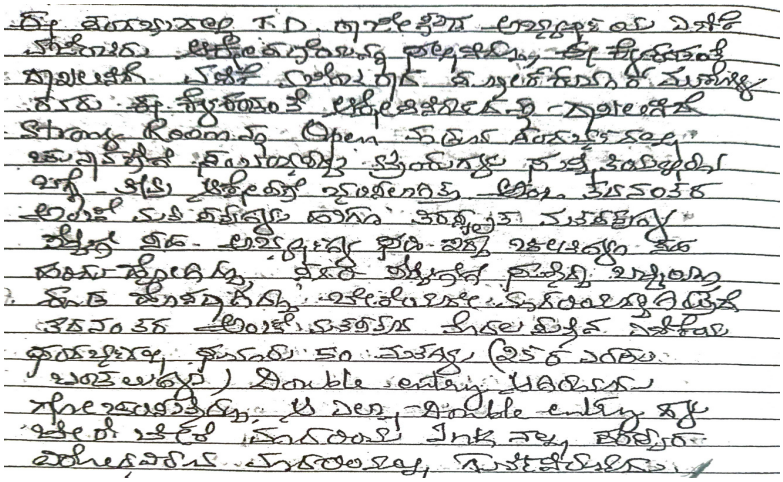
(b) Chief Electoral Officer, Government of Karnataka, Nirvachana Nilaya, Maharani's College Circle, Bengaluru-560 001.

(c) The District Sheshadri Election Road, Officer, Chikkamagaluru District, Chikkamagalur.

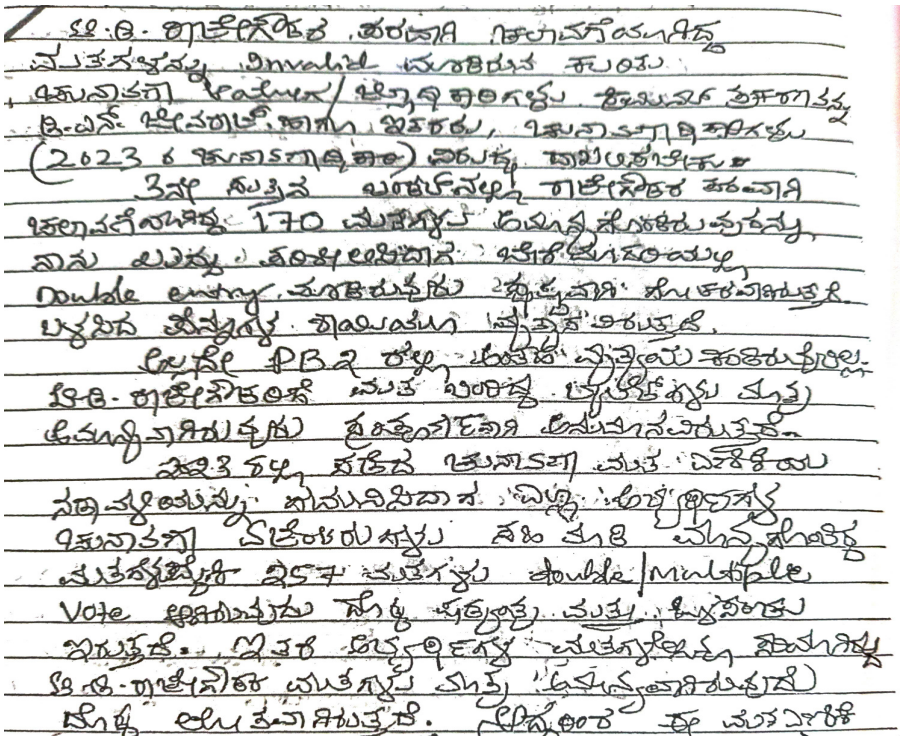
(d) The Returning Officer, Sringeri, 123 Assembly Constituency, Chikkamagaluru District."

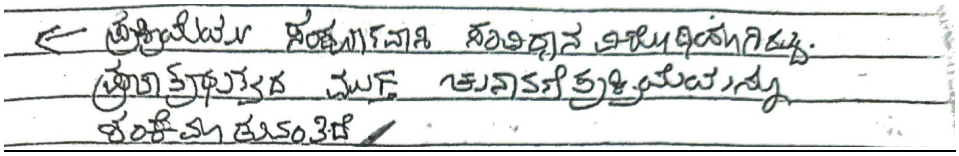
12.1. After the order was passed by the coordinate Bench, the Returning Officer conducts re-verification and recounting of postal ballots and declares Sri D.N. Jeevaraja to be the successful candidate. The Returning Officer's report after recounting of votes is as follows:





12.2. The report also records that the envelope of the candidate Sri T.D. Rajegowda was opened and in all what was found is as follows:





12.3. It is then the Returning Officer passes an order after recounting of votes. The next day emerges the impugned complaint. Since the entire issue has now sprung from the complaint, the complaint reads as follows:

"ಗೆ

ಠಾಣಾಧಿಕಾರಿಗಳು,
ನಗರ ಪೊಲೀಸ್ ಠಾಣೆ
ಚಿಕ್ಕಮಗಳೂರು.

ಇಂದ,

ಸುಧೀರ್ ಕುಮಾರ್ ಮುರೊಳ್ಳಿ,
ಬಿನ್ ಎಂ. ಹಾಲಪ್ಪ ಹೆಗ್ಗಡೆ,
ದೀಪೋತ್ಸವ ತಿಲಕ ರಸ್ತೆ,
ಕೊಪ್ಪ, ಕೊಪ್ಪ ತಾಲ್ಲೂಕು - 577126
ಮೊಬೈಲ್ ಸಂಖ್ಯೆ: 9448245172

ಮಾನ್ಯರೆ,

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದ ಖಾಯಂ ವಾಸಿಯಾಗಿದ್ದು, 2023ನೇ ಸಾಲಿನಲ್ಲಿ ಜರುಗಿದ (123) ಶೃಂಗೇರಿ ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರದ ಐ.ಎನ್.ಸಿ. ಅಭ್ಯರ್ಥಿಯಾಗಿದ್ದ ಶ್ರೀ ಟಿ.ಡಿ. ರಾಜೇಗೌಡರ ಪರವಾಗಿ ಎಣಿಕೆಯ ಸಂದರ್ಭದಲ್ಲಿ ನಾನು ಅಂಚೆ ಮತದ ಎಣಿಕೆ ಟೇಬಲ್ನ ಏಜೆಂಟನಾಗಿದ್ದೆನು.

ಸದರಿ ಎಣಿಕೆ ಸಂದರ್ಭದಲ್ಲಿ ಇಡೀ ಮತ ಎಣಿಕೆ ಕಾರ್ಯದಲ್ಲಿ ಸಕ್ರೀಯವಾಗಿ ನಾನು ಪಾಲ್ಗೊಂಡಿದ್ದು, ETPBS ಒಟ್ಟು 11 ಮತಗಳಲ್ಲಿ ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ-07 ಮತಗಳು, ಡಿ.ಎನ್. ಜೀವರಾಜ್ ರವರಿಗೆ-03 ಮತಗಳು, ಕೆ.ಎಂ. ಗೋಪಾಲ ರವರಿಗೆ-01 ಮತಗಳು ಬಂದಿರುತ್ತದೆ, ಅಂಚೆ ಮತದ ಮೊದಲನೇ ಸುತ್ತಿನಲ್ಲಿ ಕೆ.ಎಂ. ಗೋಪಾಲ ರವರಿಗೆ-06 ಮತಗಳು, ಡಿ.ಎನ್. ಜೀವರಾಜ ರವರಿಗೆ-204 ಮತಗಳು, ರಾಜನ್ ಗೌಡ ರವರಿಗೆ-4 ಮತಗಳು, ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ-157 ಮತಗಳು, ಸುಧಾಕರ್ ಎಸ್ ಶೆಟ್ಟಿ ರವರಿಗೆ-74 ಮತಗಳು, ನೋಟಾ ಮತಗಳು-01 ಹಾಗೂ Rejected-54 ಮತಗಳು ಸಂದಾಯವಾಗಿದ್ದು, ಎರಡನೇ ಸುತ್ತಿನಲ್ಲಿ

ಕೆ.ಎಂ. ಗೋಪಾಲ ರವರಿಗೆ-05 ಮತಗಳು, ಡಿ.ಎನ್. ಜೀವರಾಜ ರವರಿಗೆ-164 ಮತಗಳು, ರಾಜನ್ ಗೌಡ ರವರಿಗೆ-1 ಮತಗಳು, ಟಿ.ಡಿ ರಾಜೇಗೌಡ ರವರಿಗೆ-156 ಮತಗಳು, ಸುಧಾಕರ್ ಎಸ್ ಶೆಟ್ಟಿ ರವರಿಗೆ-67 ಮತಗಳು, ಜಿ. ಭಾರತಿಯವರಿಗೆ-01 ಮತಗಳು, ನೋಟಾ ಮತಗಳು-01, Rejected-102 ಮತಗಳಾಗಿದ್ದು, ಮೂರನೇ ಸುತ್ತಿನಲ್ಲಿ ಡಿ.ಎಸ್. ಜೀವರಾಜ ರವರಿಗೆ-190 ಮತಗಳು, ರಾಜನ್ ಗೌಡ ರವರಿಗೆ-1 ಮತಗಳು, ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ-170 ಮತಗಳು, ಸುಧಾಕರ್ ಎನ್ ಶೆಟ್ಟಿ ರವರಿಗೆ-71 ಮತಗಳು, ಕೆ.ಆರ್. ಕುಸುಮ ರವರಿಗೆ-01 ಹಾಗೂ ನೋಟಾ ಮತಗಳು-01, Rejected-66 ಮತಗಳು ಸಂದಾಯವಾಗಿದ್ದು, 4ನೇ ಸುತ್ತಿನಲ್ಲಿ ಕೆ.ಎಂ. ಗೋಪಾಲ ರವರಿಗೆ-01 ಡಿ.ಎನ್. ಜೀವರಾಜ ರವರಿಗೆ-131 ಮತಗಳು, ರಾಜನ್ ಗೌಡ ರವರಿಗೆ-1 ಮತಗಳು, ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ-79 ಮತಗಳು, ಸುಧಾಕರ್ ಎಸ್ ಶೆಟ್ಟಿ ರವರಿಗೆ-44 ಮತಗಳು, ಕೆ.ಆರ್. ಕುಸುಮ ರವರಿಗೆ-01 ಹಾಗೂ Rejected-57 ಮತಗಳು ಸಂದಾಯವಾಗಿರುತ್ತದೆ.

ಸದರಿ ಚುನಾವಣೆಯಲ್ಲಿ ಇ.ವಿ.ಎಂ, ETPBS ಹಾಗೂ ಅಂಚೆ ಮತಗಳ ಒಟ್ಟು ಮತ ಗಳಿಕೆಯಿಂದ ಶ್ರೀ ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ 201 ಮತಗಳ ಅಂತರದಿಂದ ಗೆಲುವಾಗಿರುತ್ತದೆ. ತದ ನಂತರ ಪರಾಜಿತ ಅಭ್ಯರ್ಥಿಯಾದ ಶ್ರೀ ಡಿ.ಎನ್. ಜೀವರಾಜ ರವರು ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯಕ್ಕೆ EP 20/2023 ರಂತೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿ ಸದರಿ ಅರ್ಜಿಯನ್ನು ಭಾಗಶಃ ಪುರಸ್ಕರಿಸಿದ ನ್ಯಾಯಾಲಯ Rejected ಮತಗಳ ಪುನರ್ ಪರಿಶೀಲನೆ ಹಾಗೂ ನಂತರದಲ್ಲಿ ಎಲ್ಲಾ ಅಂಚೆ ಮತ ಪತ್ರಗಳ ಎಣಿಕೆಗೆ ಆದೇಶವಾಗಿದ್ದು, ಯಾವುದೇ ಅಕ್ರಮ ಎಸಗದೆ ಇದ್ದುದರಿಂದ ಸದರಿ ಆದೇಶಕ್ಕೆ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸದೇ ದಿನಾಂಕ:02-05-2026 ರಂದು ಮರು ಮತ ಎಣಿಕೆಗೆ ಶ್ರೀ ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರ ಪರವಾಗಿ ನಾನು ಏಜೆಂಟನಾಗಿ ಹಾಜರಾಗಿದ್ದೆ.

ದಿನಾಂಕ:13-05-2023 ರಂದು ಅಮಾನ್ಯವಾಗಿದ್ದ ಮತಗಳ ಪೈಕಿ ಲಭ್ಯ 269 ಮತಗಳ ಪುನರ್ ಪರಿಶೀಲನೆಯಾಗಿ ಅದರಲ್ಲಿ ಕೇವಲ 08 ಮತಗಳನ್ನು ಪುನರ್ ಎಣಿಕೆಗೆ ಒಳಪಡಿಸಲಾಗಿದ್ದು, ಅದರಲ್ಲಿ ಶ್ರೀ ಡಿ.ಎನ್ ಜೀವರಾಜ್ ರವರಿಗೆ-02 ಶ್ರೀ ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ-03 ಮತಗಳು ಲಭ್ಯವಾಗಿರುತ್ತದೆ.

ತದನಂತರ ಅಂಚೆ ಮತಗಳ ಪುನರ್ ಎಣಿಕೆಗೆ ಒಳಪಡಿಸಿದಾಗ ನಾಲ್ಕು ಸುತ್ತುಗಳಲ್ಲಿ ಸೀಲು ಆಗಿರದ ಕಟ್ಟುಗಳಲ್ಲಿ ಶ್ರೀ ಟಿ.ಡಿ. ರಾಜೇಗೌಡ ರವರಿಗೆ ಸಂದಾಯವಾಗಿದ್ದ ಮತಗಳ ಪೈಕಿ-**257** ಮತಗಳನ್ನು **Double / Multipal Entry** ಗೋಚರಿಸಿದ್ದರಿಂದ ಹಾಲಿ ಚುನಾವಣಾಧಿ ಕಾರಿಯಾಗಿದ್ದ ಶ್ರೀ ಗೌರವಶೆಟ್ಟಿ ರವರು ಅಮಾನ್ಯಗೊಳಿಸಿರುತ್ತಾರೆ. ದಿನಾಂಕ:**13-05-2023** ರಂದು ಮತ ಎಣಿಕೆ ಸಂದರ್ಭದಲ್ಲಿ ಶ್ರೀ ಟಿ.ಡಿ.ರಾಜೇಗೌಡರವರಿಗೆ ಸಂದಾಯವಾಗಿದ್ದ ಮತಗಳನ್ನು ಮಾತ್ರ ಅದರಲ್ಲೂ **01** ಕಟ್ಟಿನ **- 170** ಮತಗಳನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಿರುತ್ತಾರೆ. ಸದರಿ ಮತಗಳನ್ನು ದಿನಾಂಕ:**13-05-2023** ಮತ ಎಣಿಕೆಯ ನಂತರ ಆಗಿನ ಚುನಾವಣಾಧಿಕಾರಿಯಾಗಿದ್ದ ಶ್ರೀ ವೇದಮೂರ್ತಿ, ಅಭ್ಯರ್ಥಿ ಶ್ರೀ ಡಿ.ಎನ್.ಜೀವರಾಜ್, ಆಗಿನ ಜಿಲ್ಲಾಧಿಕಾರಿ ಶ್ರೀ ರಮೇಶ ಹಾಗೂ ಇತರರು ಸೇರಿ ಸಂಚು ರೂಪಿಸಿ ಪೆಟ್ಟಿಗೆಗಳ ಸೀಲುಗಳನ್ನು ತೆಗೆದು ಅಕ್ರಮ ಎಸಗಿರುತ್ತಾರೆ.

ಈ ರೀತಿ ಅಕ್ರಮ ಎಸಗಿರುವ ಸಂಚಿನ ಬಗ್ಗೆ ಸ್ಟ್ರಾಂಗ್ ರೂಂ ಬಳಿಯಲ್ಲಿಯೇ ದಿನಾಂಕ:- **02-05-2026** ರ ಬೆಳಿಗ್ಗೆ **07-00** ಗಂಟೆಗೆ ಹಾಗೂ ಮತ ಎಣಿಕೆ ಪ್ರಕ್ರಿಯೆ ಸಂದರ್ಭದಲ್ಲಿ ಅಕ್ಷೇಪಣೆ ವ್ಯಕ್ತಪಡಿಸಿರುತ್ತೇವೆ.

ಈಗ **Double / Multipal Entry** ಆಗಿರುವ - **257** ಬ್ಯಾಲೆಟ್ ಗಳನ್ನು ದಿನಾಂಕ: **13-05-2023** ರ ಮತ ಎಣಿಕೆ ನಂತರವೇ ತಿದ್ದಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಗೋಚರಿಸಿರುತ್ತದೆ.

ದಿನಾಂಕ:**13-05-2023** ರ ಚುನಾವಣಾ ಪ್ರಕ್ರೀಯ ನಿರ್ಣಯ ಪುಸಕ್ತದಲ್ಲಿ ಬರೆದು ಎಲ್ಲರೂ ಒಪ್ಪಿ ಸಹಿ ಮಾಡಿರುವ ಸಂಗತಿಗಳೆ ಈಗ ವ್ಯತ್ಯಯವಾಗಿರುವುದನ್ನು ನೋಡಿದಲ್ಲಿ ಅಕ್ರಮ ಕೂಟ ಕಟ್ಟಿಕೊಂಡು ಒಳಸಂಚು ರೂಪಿಸಿ, ಚುನಾವಣಾ ಅಕ್ರಮಗಳ ಮೂಲಕ ಬ್ಯಾಲೆಟ್ ಗಳನ್ನು ವೈಯಕ್ತಿಕ ಲಾಭಕ್ಕಾಗಿ ತಿದ್ದಿರುವುದು ಗೊತ್ತಾಗುತ್ತಿದ್ದು, ಆಗಿನ ಚುನಾವಣಾಧಿಕಾರಿ ಶ್ರೀ ವೇದಮೂರ್ತಿ (ಮೊಬೈಲ್ ಸಂಖ್ಯೆ-**9620414225**) ಹಾಗೂ ಅಕ್ರಮಕ್ಕೆ ಜೊತೆಯಾಗಿರುವ ಶ್ರೀ ಡಿ.ಎನ್. ಜೀವರಾಜ್, ರಮೇಶ್ ಹಾಗೂ ಇತರರ ಮೇಲೆ ಪ್ರಕರಣ ದಾಖಲಿಸಿ ತನಿಖೆಗೆ ಕೈಗೊಳ್ಳಬೇಕಾಗಿ ಕೋರಿದೆ. ಮತ ಎಣಿಕೆ ಕಾರ್ಯ ಹಾಗೂ ಪ್ರಕ್ರಿಯೆ ರಾತ್ರಿ **12-30** ರವರೆಗೂ ನಡೆದಿದ್ದರಿಂದ ಈಗ ಬಂದು ತಡವಾಗಿ ದೂರು ನೀಡುತ್ತಿದ್ದೇನೆ.

ದಿನಾಂಕ: 03-05-2026
ಸ್ಥಳ: ಚಿಕ್ಕಮಗಳೂರು

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-
(ಸುಧೀರ್ ಕುಮಾರ್ ಮುರೊಳ್ಳಿ)"

(Emphasis added)

The fulcrum of the allegation in the complaint is that, the votes were counted and 267 postal ballots were invalidated by the Returning Officer on the basis of double/multiple entries.

13. It is alleged that votes were counted on 13-05-2023 and the then Returning Officer, the defeated candidate and the Deputy Commissioner had conspired to remove the seals of the boxes and tampered with the postal ballots and made multiple markings on those postal ballots. If this was not permitted to

be investigated into, no election would be safe. Allegations will always galore by the candidate who has lost the election against other candidate who has won the election. With the seal and signatures of T.D.Rajegowda and his election agent, the ballot boxes were sealed and kept in the strong room which was within the lock and seal of the jurisdictional Police as is done in elections. If there was doubt about the counting earlier in the year 2023, nothing stopped the complainant from registering the complaint immediately thereafter. With the declaration of the results after recounting in which the candidate loses and accused No.2 is declared as a winning candidate, investigation by the jurisdictional police on a complaint cannot emerge. It is undoubtedly hit by delay. Due to delay, there has been lot of embellishments in the complaint.

14. Whether delay would vitiate registration of the crime itself, need not detain this Court for long or delve deep into the matter.

14.1. The Apex Court in the case of **CHANCHALPATI DAS v. STATE OF WEST BENGAL[2],** has held as follows:

"…. …. ….

[2] **2023 SCC OnLine SC 650**

22. In the light of the aforestated legal position, if the facts of the case are appreciated, there remains no shadow of doubt that the complaint filed by the respondent complainant after an inordinate unexplained delay of eight years was nothing but sheer misuse and abuse of the process of law to settle personal scores with the appellants, and that continuation of such malicious prosecution would also be further abuse and misuse of process of law, more particularly when neither the allegations made in the complaint nor in the charge-sheet, disclose any prima facie case against the appellants. The allegations made against the appellants are so absurd and improbable that no prudent person can ever reach to a conclusion that there is a sufficient ground for proceeding against the appellants-accused.

23. Before parting, a few observations made by this Court with regard to the misuse and abuse of the process of law by filing false and frivolous proceedings in the courts need to be reproduced. In the Court in *Dalip Singh* v. *State of U.P.* [*Dalip Singh* v. *State of U.P.*, (2010) 2 SCC 114: (2010) 1 SCC (Civ) 324] it was observed that: (SCC p. 116, para 1)

> "*1*. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system**. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings**."

24. In *Subrata Roy Sahara* v. *Union of India* [*Subrata Roy Sahara* v. *Union of India*, (2014) 8 SCC 470 : (2014) 4 SCC (Civ) 424 : (2014) 3 SCC (Cri) 712] it was observed as under : (SCC p. 642, para 191)

> "*191.* **The Indian judicial system is grossly afflicted with frivolous litigation. Ways and means need to be evolved to deter litigants from their compulsive obsession towards senseless and ill-considered claims**."

25. We would like to add that just as bad coins drive out good coins from circulation, bad cases drive out good cases from being heard on time. Because of the proliferation of frivolous cases in the courts, the real and genuine cases have to take a backseat and are not being heard for years together. The party who initiates and continues a frivolous, irresponsible and senseless litigation or who abuses the process of the court must be saddled with exemplary cost, so that others may deter to follow such course. The matter should be viewed more seriously when people who claim themselves and project themselves to be the global spiritual leaders, engage themselves into such kind of frivolous litigations and use the court proceedings as a platform to settle their personal scores or to nurture their personal ego."

14.2. Again, the Apex Court in the case of **MOHAMMAD WAJID v. STATE OF UTTAR PRADESH**[3]**,** holds as follows:-

> "…. …. ….
>
> **36.** At this stage, we would like to observe something important. **Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely**.
>
> **37. We say so because once the complainant decides to proceed against the accused with an**

[3] **2023 SCC OnLine SC 951**

ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

38. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

39. In *State of A.P.* v. *Golconda Linga Swamy* [*State of A.P.* v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. **The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR.** The Court held : (SCC pp. 526-27, paras 5-7)

> "*5*. … Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In

exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. ***When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto*.**

6. In *R.P. Kapur* v. *State of Punjab* [*R.P. Kapur* v. *State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)

(*i*) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(*ii*) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(*iii*) *where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge*.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. ***When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained.*** *That is the function of the trial Judge*. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. **Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it**

> **would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly.** At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death."
>
> (emphasis supplied)

Delay in lodging the FIR

40. The alleged incident is said to have occurred sometime in the year 2021. There is no reference to any date or time of the incident in the FIR. The allegations are too vague and general. Had it been the case of prompt registration of the FIR, probably the police might have been able to recover Rs 2 lakhs from the possession of the accused persons alleged to have been forcibly taken away from the pocket of the first informant. The FIR also talks about a document on which the first informant and his brother were forced to put their signatures. We wonder, whether the investigating agency was in a position to collect or recover any such document from the accused persons containing their signatures in the course of the investigation, more particularly when the State says that the investigation is over and the charge-sheet is also ready. In the absence of all this material, how is the State going to prove its case against the accused persons.

41. The FIR in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The object of insisting upon lodging of the FIR to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as names of the eyewitnesses present at the scene of occurrence.

42. In the aforesaid context, we may clarify that delay in the registration of the FIR, by itself, cannot be a ground for quashing of the FIR. However, delay with other attending circumstances emerging from the record of the case rendering the entire case put up by the prosecution inherently improbable, may at times become a good ground to quash the FIR and consequential proceedings. If the

FIR, like the one in the case on hand, is lodged after a period of more than one year without disclosing the date and time of the alleged incident and further without any plausible and convincing explanation for such delay, then how is the accused expected to defend himself in the trial. It is altogether different to say that in a given case, in the course of investigation the investigating agency may be able to ascertain the date and time of the incident, etc. The recovery of few incriminating articles may also at times lend credence to the allegations levelled in the FIR. However, in the absence of all such materials merely on the basis of vague and general allegations levelled in the FIR, the accused cannot be put to trial."

14.2. The Apex Court in the latest judgment rendered in the case of **ANITA MAURYA v. STATE OF UTTAR PRADESH[4],** holds as follows:

"…. …. ….

16. The power is undoubtedly to be exercised sparingly, with circumspection, and never to throttle a legitimate prosecution or to conduct a mini trial at the threshold. **These self-imposed restraints, however, do not require the court to shut its eyes to a proceeding that is a manifest abuse. Where mala fide or an oblique motive is alleged, the court is not confined to the four corners of the complaint. In *Mahmood Ali* v. *State of U.P.*[2], this Court held that in such a situation the court owes a duty to examine the complaint with care and a little more closely, and, where necessary, to read in between the lines.**

17. The same principle was reiterated in *Mohammad Wajid* v. *State of U.P.*[3], where it was observed:

"30. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the

[4] **2026 SCC OnLine SC 1519**

Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. **In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.** Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(**emphasis supplied**)

…. …. ….

19. Delay in setting the criminal law in motion, when it is deliberate and unexplained, is a circumstance that may itself justify the quashing of the

proceeding. In *Kishan Singh (Dead) through Legal Representatives* v. *Gurpal Singh*, this Court observed:

> **"22. In cases where there is a delay in lodging a FIR, the court has to look for a plausible explanation for such delay. In the absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an afterthought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the civil court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case."**

20. This principle has been applied by this Court very recently in *Nazibul Rahim Khan* v. *State of U.P.*, where, this Court while setting aside an order of the same High Court, held that although civil and criminal remedies may co-exist upon the same cause of action, there ought not to be an unreasonable or inordinate gap between the institution of the two, **the time-factor being an indicator of whether the criminal proceeding is genuine and bona fide or a mere pressure tactic, and that the complainant is obliged to satisfactorily explain the delay.** This Court there expressly approved and applied *Kishan Singh* (supra).

21. A complaint that suppresses a pre-existing FIR lodged by the accused in respect of the same incident, and that is instituted after such report has ripened into a charge-sheet, bears the hallmark of a retaliatory counterblast. In *Anukul Singh* v. *State of U.P.*, this Court quashed the proceedings, holding that the plea that the case was a retaliatory counter-blast to the proceedings legitimately initiated by the accused carried substantial weight, that a proceeding so maliciously instituted with an ulterior motive falls within categories (1) and (7) of *Bhajan Lal* (supra), and

that the suppression of a material antecedent proceeding is itself indicative of the want of bona fides.

22. Turning to the facts in the case in hand, the chronology is not in dispute. **The incident is that of 09.11.2020. On that very day the appellants' side lodged the FIR, and a charge-sheet followed on 30.11.2020, upon which the trial has commenced. The complaint of the respondent, founded on the identical incident, was instituted only in the year 2021, and no explanation has been offered for the intervening delay. Such deliberate and unexplained delay, set against a subsisting antecedent proceeding on the same facts, is precisely the circumstance which, in *Kishan Singh* (supra) and *Nazibul Rahim Khan* (supra), was held to point to an oblique motive rather than to a genuine grievance.**

23. Another aspect which requires consideration is the matter of suppression. The complaint as filed by the respondent No. 2, did not disclose the pre-existing FIR or the charge-sheet dated 30.11.2020. When read a little more closely, the sequence of events assumes significance. The complainant, whose own side was already facing a charge-sheeted FIR arising out of the same occurrence, set the criminal law in motion afresh against the entire opposing family, including the three women, over the identical incident. A proceeding of this character answers to the description of the retaliatory counterblast that was deprecated in *Anukul Singh Case* (supra).

24. Lastly, there remains the civil substratum of the controversy. The dispute between the parties has, at its root, a long-standing quarrel over land, agitated by the complainant even by way of a public interest litigation. To permit a private complaint, belatedly instituted and suppressing the earlier FIR, to proceed against an entire family in these circumstances would be to allow a matter essentially civil to be pursued through the criminal process as an instrument of harassment, a course against which this Court in *G. Sagar Suri case* (supra) cautions. The summoning of the entire family, including the three women, upon a solitary and belated version, does not reflect the careful application of mind by the Magistrate that the issuance of process demands.

25. The High Court confined itself to the bare averments of the complaint and treated the material placed by the appellants as raising only disputed questions of fact

> for trial. **Where, however, the *indicia* of mala fide and abuse of process appear on the record, the court is not merely entitled but obliged to look beyond the averments and to prevent the perpetuation of the abuse. Taking the cumulative effect of the unexplained delay, the suppression of the antecedent FIR, the counter-blast character of the complaint and the essentially civil nature of the dispute, we are of the considered view that the case falls squarely within categories (1), (5) and (7) of *Bhajan Lal Case* (supra), and that the continuation of the complaint against the appellants would be nothing but an abuse of the process of the court."**

The Apex Court in the afore-quoted judgments holds generally delay cannot be the sole ground if it is explained. The Apex Court in the afore-quoted judgments was examining vague allegations made after conclusion of the alleged incident and quashes the FIR. The Apex Court holds that the accused cannot be permitted to be investigated or tried on vague and general allegations made after enormous delay.

15. On a coalesce of the judgments rendered by the Apex Court what would unmistakably emerge is that, a complaint of the process of election and offences alleged under the provisions of the Act need not be filed only by the Election Commission of India or before the Election Commission of India; a private complaint can also be filed under Section 200 of the Cr.P.C. or Section 223 of the BNSS by an individual.

16. Delay in the case at hand has completely vitiated registration of the complaint itself. The Election Officers are now alleged of criminal conspiracy in declaration of election where Sri T.D. Rajegowda had been declared as a returned candidate. Therefore, if the allegations are not tested, it would mean that declaration of T.D.Rajegowda's election is itself found fault with by T.D.Rajegowda himself. This is *sans* countenance. The same goes with the other accused as well. It becomes apposite to refer to the judgment of the Apex Court in **STATE OF HARYANA v. BHAJAN LAL[5],** wherein it is held as follows:

> **"102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
>
> **(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.**

[5] **1992 Supp (1) SCC 335**

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(Emphasis supplied at each instance)

In the light of the afore-mentioned facts, permitting investigation in the cases at hand would become an abuse of the process of law and result in miscarriage of justice.

17. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petitions are allowed.

(ii) The crime in Crime No.83 of 2026 registered by Chikkamagaluru Police Station and pending before the Principal Civil Judge (Senior Division) and CJM, Chikkmagaluru, stands quashed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ
CT:MJ