Reserved on : 02.09.2026
Pronounced on : 04.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 21084 OF 2026 (GM-RES)

BETWEEN:

SRI G.NAGESH ALIAS RAJESHA HIRIMANE
S/O GUNDAPPA GOWDA
AGED ABOUT 51 YEARS,
HIRIMANE, MALALI, SHIVAMOGGA
KARNATAKA – 577 425.

...PETITIONER

(BY SRI M.ARUNA SHYAM, SR.ADVOCATE A/W
SRI SUYOG HERELE E., ADVOCATE)

Digitally signed by
PADMAVATHI B K
Location: High
Court of
Karnataka

AND:

1. THE STATE OF KARNATAKA
THROUGH NAGARA P.S
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA BUILDING
BENGALURU – 560 001.

2. THE DEPUTY COMMISSIONER,

SHIVAMOGGA SOWLANG ROAD,
BASAVANAGUDI,
SHIVAMOGGA DISTRICT,
SHIVAMOGGA – 577 201.

…RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I)

THIS WRIT PETITION FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, PRAYING TO I. ISSUE A WRIT IN THE NATURE OF CERTIORARI AND QUASH THE ENTIRE PROCEEDINGS IN C.C NO. 2891/2025 INCLUDING THE ORDER OF TAKING COGNIZANCE DATED: 01-12-2025, FIR, COMPLAINT AND CHARGE SHEET IN CR. NO. 25/2025 REGISTERED BY THE RESPONDENT NO.2 FOR THE ALLEGED OFFENCE PUNISHABLE U/S 353(2) OF BNS, 2023 PENDING ON THE FILE OF PRL. CIVIL JUDGE (JR. DN.) J.M.F.C COURT, HOSANAGARA, SHIVAMOGGA DISTRICT. (PRODUCED AT ANNEXURE-A, B, C AND D) IN THE INTEREST OF JUSTICE AND EQUITY; II. ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER WRIT AND QUASH THE IMPUGNED ORDER OF SANCTION DATED 14-11-2025 IN NO. SMGDC-MAG1/MLWO/43/2025(e-896951) PASSED BY THE RESPONDENT NO.2 AND ALL FURTHER PROCEEDINGS PURSUANT THERETO (PRODUCED AT ANNEXURE-F).

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 02.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioner is before the Court seeking the following prayer:

i. "Issue a writ in the nature of certiorari and quash the entire proceedings in C.C.No.2891 of 2025 including the order taking cognizance dated:01-12-2025, FIR, complaint and charge sheet in Cr.No.25 of 2025 registered by the Respondent No.2 for the alleged offence punishable under Section 353(2) of BNS, 2023 pending on the file of Principal Civil Judge (Jr. Dn.,) JMFC Court, Hosanagara, Shivamogga District (produced at Annexure-A, B, C and D) in the interest of justice and equity.

ii. Issue a writ in the nature of certiorari or any other writ and quash the impugned order of sanction dated 14.11.2025 in No.SMGDC-MAG1/MLWO/43/2025(e-896951) passed by Respondent No.2 and all further proceedings pursuant thereto (produced at Annexure-F), in the interest of justice and equity.

iii. Issue any other writ or order and grant such other relief or reliefs as this Hon’ble Court may deem fit in the facts and circumstances of the case, in the interest of justice.”

2. Heard Sri **M. Aruna Shyam**, learned senior counsel appearing for the petitioner and Sri **B.N. Jagadeesha**, learned State Public Prosecutor-1 appearing for the respondents.

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

It is the case of the prosecution that the petitioner on 20-05-2025 shared a poster depicting one half of the face of Sri Rahul Gandhi, leader of the opposition and the other half of the face of an officer wearing the military uniform of Pakistan Army bearing the nameplate 'ASIM' with tagline 'one agenda'. Based upon this, a complaint comes to be registered by the 2nd respondent/Deputy Commissioner, Shivamogga District alleging that the poster shared by the petitioner was capable of generating enmity, hatred and ill-will among communities and regional groups. It is, therefore, a crime comes to be registered in Crime No.25 of 2025 for the offences punishable under Section 353(2) of the BNS. The Police then conduct investigation and file a charge sheet against the petitioner; the concerned Court takes cognizance of the offence and registers C.C.No.2891 of 2025. It is this that has driven the petitioner to this Court in the subject petition.

4. The learned senior counsel Sri M. Aruna Shyam appearing for the petitioner would vehemently contend that the petitioner is not the creator of the image; he has only shared it. Even otherwise it would not make out an offence under Section 353(2) of the BNS. He would seek to place reliance upon plethora of judgments of the Apex Court on the issue.

5. Per contra, the learned State Public Prosecutor Sri B. N. Jagadeesha appearing for the respondents/State would vehemently refute the submissions in contending that the petitioner is prima facie guilty of promoting ill-will amongst communities. Therefore, it is for the petitioner to come out clean in a full-blown trial. He would submit that this Court must not lend its protective hand to the petitioner in the peculiar facts of this case. He would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts lie in a narrow compass as the incident itself, against the petitioner, is concerning forwarding of a social media post. The complaint is by the Deputy Commissioner for the aforesaid offence in Crime No.25 of 2025. The complaint reads as follows:

"ವರದಿ

ಪ್ರವೀಣ್ ಕುಮಾರ್ ಬಿ.ಎಸ್. ಸಿ.ಹೆಚ್.ಸಿ-428, ನಗರ ಪೊಲೀಸ್ ಠಾಣೆ, ಆದ ನಾನು ಬರೆದುಕೊಟ್ಟ ವರದಿ.

ದಿನಾಂಕ :- 20/05/2025

ನಾನು ಈ ದಿನ ದಿನಾಂಕ:-20/05/2025 ರಂದು ನಾನು ಗುಪ್ತ ಮಾಹಿತಿ ಸಂಗ್ರಹಣೆ ಕರ್ತವ್ಯದಲ್ಲಿ ನಗರ ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಮುಂಡಳ್ಳಿ, ಚಕ್ರನಗರ, ಮಳಲಿ, ಬೈಸೆ ಮುಂತಾದ ಗ್ರಾಮಗಳಲ್ಲಿ ಸಂಚರಿಸುತ್ತ ಗುಪ್ತ ಮಾಹಿತಿ ಸಂಗ್ರಹಿಸುತ್ತಿದ್ದಾಗ ಮದ್ಯಾಹ್ನ 03-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಬಾತ್ಮೀದಾರರು ನನಗೆ ತಿಳಿಸಿದ ವಿಚಾರವೇನೆಂದರೆ ಹೊಸನಗರ ತಾಲ್ಲೂಕು, ನಗರ ಹೋಬಳಿ, ಮಳಲಿ ಗ್ರಾಮದ ವಾಸಿ ರಾಜೇಶ ಹಿರಿಮನೆ ಇವರು ತಮ್ಮ ಫೇಸ್ ಬುಕ್ ಸಾಮಾಜಿಕ ಜಾಲತಾಣದ ಬಳಕೆದಾರರಾಗಿದ್ದು ತಮ್ಮ ಪೇಸ್ ಬುಕ್ ಪೇಜ್ ನಲ್ಲಿ ರಾಜೇಶ್ ಹಿರಿಮನೆ ಎಂಬ ಹೆಸರಿನ ಪೇಸ್ ಬುಕ್ ಪೇಜ್ ಮುಖಾಂತರ ಭಾರತ ದೇಶದ ಲೋಕಸಭಾ ವಿರೋಧಪಕ್ಷದ ಮುಖಂಡರಾದ ಶ್ರೀ ರಾಹುಲ್ ಗಾಂಧಿಯವರ ಮುಖದ ಅರ್ಧ ಭಾಗದ ಚಿತ್ರ ಮತ್ತು ಪಾಕಿಸ್ತಾನ ದೇಶದ ಸೈನ್ಯದ ಸಮವಸ್ತ್ರ ಧರಿಸಿರುವ ಅಧಿಕಾರಿ ASIM ಎಂಬ ನೇಮ್ ಪ್ಲೇಟ್ ಹೊಂದಿರುವ ಅಧಿಕಾರಿಯ ಮುಖದ ಅರ್ಧ ಭಾಗದ ಚಿತ್ರವನ್ನು ಜೊತೆಗೂಡಿಸಿ ONE AGENDA ಅಂತ ಟ್ಯಾಗ್ ಲೈನ್ ಅಳವಡಿಸಿರುವ ಪೋಸ್ಟರ್ ಅನ್ನು ತೋರಿಸಿದ್ದು ಇದು ಒಂದು ಸಮುದಾಯ ಮತ್ತು ಪ್ರಾದೇಶಿಕ ಗುಂಪುಗಳ ನಡುವೆ ವೈರತ್ವ ಹಾಗು ದ್ವೇಷ ಅಥವಾ ವೈನಮಸ್ಸನ್ನು ಉಂಟು ಮಾಡುವ ರೀತಿಯಲ್ಲಿ ಉದ್ದೇಶಕಪೂರ್ವಕವಾಗಿ ಪೋಸ್ಟ್ ಮಾಡಿದಂತೆ ಇದ್ದು, ಈ ಫೇಸ್ ಬುಕ್ ಪೇಜ್ ನಲ್ಲಿ ಶೇರ್ ಮಾಡಿದ ರಾಜೇಶ್ ಹಿರಿಮನೆ, ಮಳಲಿ ಗ್ರಾಮ, ಹೊಸನಗರ ತಾಲ್ಲೂಕು ಈತನ ಮೇಲೆ ಮುಂದಿನ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ರಾಜೇಶ್ ಹಿರಿಮನೆ ಎಂಬ ಪೇಸ್ ಬುಕ್ ಪೇಜ್ ನಿಂದ ಶೇರ್ ಆಗಿರುವ ಪೋಸ್ಟ್ ನ ಸ್ಕ್ರೀನ್ ಶಾಟ್ ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿ ಪಿಎಸ್ಐ ರವರಿಗೆ ವರದಿಯನ್ನು ನೀಡಿರುತ್ತೇನೆ."

The police conduct investigation and file a charge sheet against the petitioner. The summary of the charge sheet as obtaining in Column No.17 reads as follows:

> "17. **ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ**
>
> ದಿನಾಂಕ:-20/05/2025 ರಂದು ಮದ್ಯಾಹ್ನ 03-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಈ ದೋಷಾರೋಪಣಾ ಪತ್ರದ ಕ್ರ.ಸಂ 14 ರಲ್ಲಿ ಕಂಡ ಸಾಕ್ಷಿ 01 ರವರು ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಗ್ರಾಮಗಳಲ್ಲಿ ಸಂಚರಿಸುತ್ತಾ ಗುಪ್ತ ಮಾಹಿತಿ ಸಂಗ್ರಹಣೆ ಕರ್ತವ್ಯದಲ್ಲಿದ್ದಾಗ ಈ ದೋಷಾರೋಪಣಾ ಪತ್ರದ ಕ್ರ.ಸಂ 12 ರಲ್ಲಿ ಕಂಡ ಆರೋಪಿತನು Vivo-1907 ಮೊಬೈಲ್ ಫೋನ್ ನಲ್ಲಿ ಸಾಮಾಜಿಕ ಜಾಲತಾಣ Facebook ನ "ರಾಜೇಶ್ ಹಿರಿಮನೆ" ಎಂಬ ಪೇಜ್ ನಿಂದ ಭಾರತ ದೇಶದ ಲೋಕಸಭಾ ವಿರೋಧ ಪಕ್ಷದ ಮುಖಂಡ ರಾಹುಲ್ ಗಾಂಧಿರವರ ಮುಖದ ಅರ್ಧ ಭಾಗದ ಚಿತ್ರ ಮತ್ತು ಪಾಕಿಸ್ತಾನ ದೇಶದ ಸೈನ್ಯದ ಸಮವಸ್ತ್ರ ಧರಿಸಿ ASIM ಎಂಬ ನೇಮ್ ಪ್ಲೇಟ್ ಹೊಂದಿರುವ ಅಧಿಕಾರಿಯ ಮುಖದ ಅರ್ಧ ಭಾಗದ ಚಿತ್ರವನ್ನು ಜೊತೆಗೂಡಿಸಿ ONE AGENDA ಅಂತ ಟ್ಯಾಗ್ ಲೈನ್ ಅಳವಡಿಸಿರುವ ಚಿತ್ರವನ್ನು ಜನ ಸಮುದಾಯ, ಪ್ರಾದೇಶಿಕ ಗುಂಪುಗಳ ನಡುವೆ ವೈರತ್ವ, ದ್ವೇಷ, ವೈ ಮನಸ್ಸಿನ ಭಾವನೆಗಳನ್ನು ಉಂಟು ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಫೇಸ್ ಬುಕ್ ಪೇಜ್ ನಲ್ಲಿ ಪೋಸ್ಟ್ ಮಾಡಿ ಪ್ರಸಾರ ಮಾಡಿರುವುದು ತನಿಖೆಯಿಂದ ದೃಡಪಟ್ಟಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಆರೋಪಿತನ ವಿರುದ್ಧ ಕಲಂ 353(2) BNS-2023 ರೀತ್ಯಾ ತಯಾರಿಸಿದ ದೋಷಾರೋಪಣಾ ಪತ್ರ."

Whether the complaint and the charge sheet would make out an offence is what is required to be considered.

8. The interpretation of Section 353(2) of the BNS or Section 153-A of the earlier regime of the IPC need not detain this court for long or delve deep into the matter. The Apex Court in **IMRAN PRATAPGADHI v. STATE OF GUJARAT**[1], has held as follows:

> "…. …. ….

[1] **2025 SCC OnLine SC 678**

38. Even while dealing with the performance of an obligation under sub-section (1) of Section 173, where the commission of the offence is based on spoken or written words, the police officer concerned will have to keep in mind the fundamental rights guaranteed under Article 19(1)(*a*) read with an exception carved out under clause (2) of Article 19. The reason is that he is under an obligation to abide by the Constitution and to respect the ideals under the Constitution. The Constitution is more than 75 years old. By this time, the police officers ought to have been sensitised about their duty of abiding by the Constitution and respecting the ideals of the Constitution. If the police officers are not aware of these obligations, the State must ensure that they are educated and sensitised by starting massive training programmes.

39. In the facts of the case, even without taking recourse to sub-section (3) of Section 173 BNSS, the information furnished to the police officer did not attract the offences punishable under Sections 196, 197, 299 and 302 BNS.

Standard to be applied

40. At this stage, we cannot resist the temptation of quoting what Bose and Puranik, JJ., authored as the Judges of the erstwhile Nagpur High Court. In *Bhagwati Charan Shukla*v. *Provincial Govt., C.P. & Berar* [*Bhagwati Charan Shukla* v. *Provincial Govt., C.P. & Berar*, 1946 SCC OnLine MP 5], in para 67, it is held thus: (SCC OnLine MP)

> "67. **Viewing the impugned article in that light we are of opinion, as a matter of fact, that it is not seditious because its professed aim is to obtain a change of Government through the ballot box and not to incite people to a disobedience of the laws of Government. *Some extravagance of language there is, and there is the usual crude emotional appeal which is the stock-in-trade of the demagogue, as well as a blundering and ineffective attempt to ape the poets*. But that is all. However, it is not enough to find that the writer is not guilty of sedition because we are concerned with Section 4 of the Press (Emergency Powers) Act which travels wider than Section 124-A. We**

have therefore further to see whether these words tend directly or indirectly to incite to sedition, or, in the words of the Ordinance, whether they are intended or are likely to produce that effect. We say deliberately whether the words are likely to incite to sedition because, as the Federal Court points out, the formula of words used in Section 4, as also in the Ordinance, is precisely the formula used in Section 124-A, therefore to the extent of the formula the two things are the same. The only difference is that under the Press Act we have to consider not only whether there is sedition in fact but also whether the words tend, directly or indirectly, to excite to sedition and whether they are intended or are likely to produce that effect. *We pause to observe that here, as in the case of reasonable doubt in criminal cases, and as in the case of putting in fear of hurt in a matter of assault, we must use the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view*. Using those standards we hold as a fact that the effects apprehended by the Crown and required by the section are not likely to be caused by this article, nor do the words used, viewed in their proper setting, tend to cause that effect. The paper is in English. It has a limited circulation. It is read by those who know and understand English. It is a party paper and is read mainly by persons who are politically minded. They are aware of contemporary political thought and occurrences. They realise as well as anyone else that neither His Excellency the Governor nor his advisers went round shooting and killing persons. They know that these acts were done by the troops and by the police. They know that there was a demand for an impartial investigation and a judicial enquiry. They know that the demand was refused and they know that the whole complaint, so far as Government is concerned, lies there. They are therefore no more likely to attribute to Government any greater responsibility than Mr Jamnadas Mehta and other members of the Central Assembly did. They are as much aware as the writer that the appeal is for a constitutional change of Government by constitutional means. They were not, in our opinion, likely to interpret it otherwise. Therefore, in our judgment, the article does not tend, directly or

> indirectly to sedition, nor is it likely to produce that result. In our view, the applications should be allowed and the orders of forfeiture set aside. The costs should, we think, in each case be paid by the Crown."
>
> (emphasis supplied)"

(Emphasis supplied)

If the facts obtaining in the case at hand are considered on the bedrock of the principles laid down by the Apex Court, permitting further trial in the case at hand would become an abuse of the process of law and result in miscarriage of justice.

9. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petition is **allowed**.

(ii) Proceedings in C.C.No.2891 of 2025 pending before the Principal Civil Judge (Jr.Dn.) and J.M.F.C. Court, Hosanagara, Shivamogga District and the order dated 14-11-2025 passed by the 2nd respondent stand quashed.

Pending application if any, also stand disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP