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NC: 2026:KHC:28594
WP No.1705 of 2023



2023:KHC:11076

IN THE HIGH COURT OF KARNATAKA AT BENGALU
DATED THIS THE 12TH DAY OF JUNE, 2026



BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO.1705 OF 2023 (GM-RES)

BETWEEN:

ABRAHAM T.J.,
ANTI-CORRUPTION AND SOCIAL ACTIVIST,
AGE. 62 YEARS, S/O LATE SRI. JOSEPH T.A.,
O/AT. #2326, 'ASHIRWAD',
2ND 'A' CROSS, 16TH 'B' MAIN,
H.A.L. 2ND STAGE, INDIRANAGARA,
BANGALORE - 560 008.

...PETITIONER

(BY SRI. H.S. GAURAV, SRI. KAUSHIK AMBATI, ADVOCATES FOR
SRI. RAJAVARDHANA REDDY B., ADVOCATE)

AND:

1. THE HON'BLE SPEAKER,
KARNATAKA LEGISLATIVE ASSEMBLY,
VIDHANA SOUDHA, BENGALURU-560 001.
2. THE SECRETARY,
KARNATAKA LEGISLATIVE ASSEMBLY,
VIDHANA SOUDHA, BENGALURU-560 001.
3. K. SRINIVAS GOWDA,
MEMBER OF LEGISLATIVE ASSEMBLY,
(148) KOLAR ASSEMBLY CONSTITUENCY,
S/O LATE KEMPE GOWDA,
AGED ABOUT 71 YEARS,
R/AT NO.13, WARD NO.17,
KOLAR CITY-563 101.
4. SRI. H.D. KUMARASWAMY,
MEMBER OF LEGISLATIVE ASSEMBLY,
(185) CHENNA PATTANA ASSEMBLY CONSTITUENCY,
S/O H.D. KUMARASWAMY,
AGED ABOUT 60 YEARS,
R/AT 286, 3RD MAIN ROAD,
III PHASE, J.P. NAGARA, BENGALURU-560078.





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5. SRI. S.R. VISHWANATH,
MEMBER OF LEGISLATIVE ASSEMBLY,
(150) YELAHANKA ASSEMBLY CONSTITUENCY,
S/O K.V. RAMAIAH,
AGED 57 YEARS,
R/AT HOUSE NO.14/1, APOORVALOKA,
SINGANAYAKANAHALLI VILLAGE AND POST,
YELAHANKA HOBLI, BENGALURU NORTH TALUK,
BENGALURU-560 064.
6. DR. ASHWATH NARAYANA C.N.,
MEMBER OF LEGISLATIVE ASSEMBLY,
(157) MALLESWARAM ASSEMBLY CONSTITUENCY,
S/O T.K. NARAYANAPPA,
AGED ABOUT 51 YEARS,
R/AT NO.87, 6TH CROSS, 2ND MAIN,
RMV 2ND STAGE, 1ST BLOCK, BENGALURU-560 094.
7. SRI. C.P. YOGESHWAR,
EX-MEMBER OF LEGISLATIVE ASSEMBLY,
S/O PUTTEHOWDA,
AGED ABOUT 56 YEARS,
R/AT CHAKKERE VILLAGE, MALURU HOBLI,
CHENNAPATTANA TALUK,
RAMANAGARA DISTRICT-571 501.

...RESPONDENTS

(BY SRI. JAGADISH B.N., ADDL. S.P.P. FOR R1 AND R2;
NOTICE TO OTHER RESPONDENTS ARE DISPENSED WITH
(V/O DATED 06.11.2025)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA 1950 READ WITH 482 OF CR.P.C.,
PRAYING TO ISSUE OF WRIT OF CERTIORARI OR SIMILAR WRIT OR
ORDER OR DIRECTION TO QUASH THE IMPUGNED LETTER BEARING
NO.KaViSaSa/ShaaRaShaa/34/AMam/2022 DATED 25/04/2022 VIDE
ANNEXURE-F ISSUED BY THE RESPONDENT NO.1 THROUGH
RESPONDENT NO.2 AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED
ON 30.04.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS
AT DHARWAD BENCH THROUGH VIDEO CONFERENCING, THIS DAY,
THE COURT MADE THE FOLLOWING:



CORAM: THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

CAV ORDER

The present petition has been filed by the complainant in PCR 77/2020 seeking for issuance of writ of certiorari to set aside the communication dated 25.04.2022 addressed to the complainant. In terms of the said communication the Deputy Secretary of the Karnataka Legislative Secretariat has taken the stand that the Speaker of the Legislative Assembly is not the authority to appoint the Elected Representatives and accordingly the question of granting sanction for the purpose of carrying out investigation or initiation of prosecution or registering a complaint does not arise. Such communication has been made to the complainant upon instructions of the Speaker.

2. Aggrieved by such communication, the present writ petition has been filed seeking for setting aside of such communication and for a direction to the Respondent No.1, the Speaker of the Karnataka Legislative Assembly,



to take a decision on the request for sanction for prosecution under Section 19 of the Prevention of Corruption Act, 1988 ("P.C.Act", for short).

3. The lis is essentially one between the petitioner, who is the complainant and has been directed to obtain sanction, and the Hon'ble Speaker who has declined to pass an order stating he is not the appropriate authority. Accordingly, the contesting parties to the lis have been heard. Notice to other respondents has been waived as per order dated 06.11.2025.

4. The facts relevant to put the legal controversy in context are that, the petitioner had filed a complaint vide PCR No.77/2020 arraying as, the accused Members of the Legislative Assembly seeking that the court may take cognizance of the offences punishable under Section 7, 8, 12, 13 (1)(b), 13 (2) and 15 of the Prevention of Corruption Act, 1988 and Section 120A and 120B, 171B, 201, 202 and 511 of the Indian Penal Code.



5. It is averred in the complaint that the accused no.1 is stated to have asserted in public that accused no.3 to 5 had lured him to cross over from the JD (S) Party to the BJP Party by offering Rs.30 Crores and in that regard an advance of Rs.5 Crores was paid and received by accused no.1.

6. It is further made out from reading of the complaint that the amount offered as bribe for switching over to a political party and received by accused no.1 was later returned to accused nos.3 to 5 at the instance of accused no.2.

7. Proceedings in the private complaint filed had progressed. During the pendency of the proceedings, the accused had approached this court in W.P.No.14322/2021 c/w CrI.P 5003/2021, W.P.No.14354/2021, W.P.No.16264/2021 challenging the validity of the order dated 29.12.2020 whereby the Trial Court had taken cognizance of the offences punishable under Section 7, 8,



12, 13 (1) (b), 13 (2) and 15 of the P.C.Act and Section 120-B, 171-B, 201, 202 and 511 of IPC as against accused nos.1 to 5.

8. The Trial Court by order dated 29.03.2021 had also directed registration of a criminal case as against accused nos.1 to 5 for offences punishable under Section 7, 8, 12, 13 (1) (b) r/w 13 (2) of the P.C.Act and 202 of IPC. The trial court had then directed issuance of process to accused nos.1 to 5 summoning them to appear before the court for facing trial.

9. Such direction of the Trial Court came to be set aside with certain directions in the writ petitions referred to above. Para 4 to 6 of the order passed in W.P.No.14322/2021 and connected matters dated 04.01.2022 is extracted as below:

"4. The memos filed by the petitioners and the stand of the respondent have the effect of binding the respective parties. To such extent, the stand of the parties can be



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taken note of and otherwise the Court is to pass an order irrespective of any concession. The operative portion of the order dated 29.03.2021 is set aside. The observation made in the order as regards to deemed sanction at paragraph Nos. 16 and 17 is set aside as the available material and facts do not permit to construe as if there has been deemed sanction. The Special Judge in terms of the mandate to Section 19(1)(c)(ii) of the P.C.Act, is to direct the complainant to obtain sanction for prosecution against the public servant for further proceeding. It is clear that sanction undoubtedly has to be taken. However, considering that the present proceedings have been initiated by a private complainant under Section 200 of Cr.P.C., the appropriate procedure and stage for obtaining sanction would be as contemplated under Section 19(1)(c)(ii) of the Act. While passing its order on 29.03.2021, the Special Judge ought to have called upon the complainant to obtain sanction as contemplated under Section 19(1)(c)(ii) of the P.C.Act.



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5. In light of the memo filed, while reserving liberty to the petitioners to raise contentions as regards all aspects, matter is relegated to the Special Judge. Upon such relegation, the Special Judge is to follow the procedure under Section 19(1)(c)(ii) of the P.C.Act and call upon the complainant to obtain sanction for prosecution and after necessary sanction is obtained as per law, the Court is required to further proceed in the matter. Needless to state that the procedures prescribed under the subsequent proviso are also to be taken note of by the Authority granting sanction. It is also clarified that while setting aside of the operative portion of the order dated 29.03.2021, this Court has not adjudicated as regards the other findings of the trial Court in the impugned order dated 29.03.2021 except the aspect of sanction. By virtue of the order passed herein, the defect as regards sanction in respect of the proceedings is taken care of.

6. Accordingly, the petitions are disposed off subject to above observations. The observations made in this order would



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also enure to the benefit of accused No.2 as the observations made are on an understanding of the legal position.”

10. Taking note of such direction of this court, the trial court has proceeded to pass a detailed order on 18.06.2022 and relevant extract of the order from para 7 onwards is as below:

"7. Hon'ble High Court of Karnataka while disposing of the above writ petitions and criminal petitions directed this Court to follow the procedure under Section 19 (1) (c) (ii) of the Prevention of Corruption of Corruption Act and call upon the complainant to obtain sanction for prosecution. It is further held that after necessary sanction is obtained as per law, the Court is required to further proceed in the matter.

8. Now the complainant has filed a memo producing a copy of the letter issued by the Deputy Secretary, Karnataka Legislative Assembly dated 25.04.2022 wherein it is stated that the Speaker is not



an Appointing Authority of Members of Vidhanasabha Legislative Assembly as they are elected representatives and hence, the question of issuing sanction by the Speaker for registration of complaint and to conduct investigation and to prosecute them does not arise.

9. In view of the above said letter, the complainant has filed the present memo seeking to issue a clear direction to the Hon'ble Speaker of Karnataka Legislative Assembly. It is to be noted here that this court has called upon the complainant to obtain sanction for prosecution as per the direction issued by the Hon'ble High Court of Karnataka in the above said writ petitions and criminal petition. Therefore, the question of this Court issuing clear direction to the Speaker of Karnataka Legislative Assembly to issue sanction for prosecution under Section 19 of the Prevention of Corruption Act, 1988 does not arise. In these circumstances, I am of the opinion that no further direction is needed in this



regard and accordingly, the memo dated 10.06.2022 is disposed of."

11. It appears from the said order dated 18.06.2022 that the complainant had approached the Deputy Secretary of the Karnataka Legislative Assembly seeking for sanction which was refused by the Speaker. The request made to the court for further direction to the Speaker of the Karnataka Legislative Assembly to grant sanction for prosecution was however rejected while observing "await sanction by 12.07.2022".

12. It is in the context of such facts and refusal by the Speaker to grant sanction as requested, the petitioner has challenged the validity of the communication dated 25.04.2022.

13. Before entering into the validity of communication at Annexure-'F' which is in the nature of an



endorsement, the extract of operative portion of the communication at Annexure-F reads as follows:

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಮಾನ್ಯ ಶಾಸಕರುಗಳ ವಿರುದ್ಧ ಅಭಿಯೋಜನಾ ಮಂಜೂರಾತಿ ನೀಡುವಂತೆ ಕೋರಿರುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: ತಮ್ಮ ಪತ್ರ ದಿನಾಂಕ: 03.03.2022.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ವಿಧಾನಸಭೆಯ ಸದಸ್ಯರಾದ ಶ್ರೀ ಕೆ. ಶ್ರೀನಿವಾಸ ಗೌಡ, ಶ್ರೀ ಹೆಚ್.ಡಿ. ಕುಮಾರಸ್ವಾಮಿ, ಶ್ರೀ ಎಸ್.ಆರ್. ವಿಶ್ವನಾಥ್ ಹಾಗೂ ಡಾ|| ಅಶ್ವತ್ಥನಾರಾಯಣ ಸಿ.ಎನ್. ಇವರುಗಳ ವಿರುದ್ಧ ಭ್ರಷ್ಟಾಚಾರ ಪ್ರತಿಬಂಧ ಅಧಿನಿಯಮ, 1988ರ ಕಲಂ 19ರ ಅಡಿಯಲ್ಲಿ ಅಭಿಯೋಜನಾ ಮಂಜೂರಾತಿ ನೀಡುವಂತೆ ಉಲ್ಲೇಖಿತ ಪತ್ರದಲ್ಲಿ ತಾವು ಕೋರಿರುವುದು ಸರಿಯಷ್ಟೆ.

ಆದರೆ, "ಮಾನ್ಯ ವಿಧಾನಸಭಾ ಸದಸ್ಯರುಗಳು ಮಾನ್ಯ ಸಭಾಧ್ಯಕ್ಷರಿಂದ ನೇಮಕಾತಿ ಹೊಂದಿದವರಲ್ಲ. ಅವರುಗಳು ಚುನಾಯಿತ ಜನಪ್ರತಿನಿಧಿಗಳು. ಮಾನ್ಯ ಸಭಾಧ್ಯಕ್ಷರು ವಿಧಾನಸಭಾ ಸದಸ್ಯರುಗಳನ್ನು ನೇಮಿಸುವ ಪ್ರಾಧಿಕಾರವಾಗದೇ ಇರುವುದರಿಂದ ಇವರುಗಳ ವಿರುದ್ಧ ದೂರು ದಾಖಲಿಸಲು, ತನಿಖೆ ಕೈಗೊಳ್ಳಲು ಮತ್ತು ಅಭಿಯೋಜನೆಗೆ ಒಳಪಡಿಸಲು ಮಾನ್ಯ ಸಭಾಧ್ಯಕ್ಷರು ಅನುಮತಿ ನೀಡುವ ಪ್ರಶ್ನೆ ಉದ್ಭವಿಸುವುದಿಲ್ಲ" ಎಂದು ತಮಗೆ ತಿಳಿಸಲು ಮಾನ್ಯ ಸಭಾಧ್ಯಕ್ಷರವರಿಂದ ನಿರ್ದೇಶಿತನಾಗಿದ್ದೇನೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ,

Sd/-

(ಬಿ.ಎಸ್. ಮಹಾಲಿಂಗೇಶ್)

ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಕರ್ನಾಟಕ ವಿಧಾನಸಭೆ ಸಚಿವಾಲಯ.

14. It is to be noticed that this court in its order in W.P.No.14322/2021 and connected matters had observed that the Complainant was required to obtain



sanction for prosecution against the public servant for further proceeding in terms of Section 19 (1) (c) (ii) of the P.C.Act. It was further observed that after calling upon the complainant at such stage to obtain sanction for prosecution the court is required to further proceed in the matter.

15. Subsequent to the order dated 04.01.2022 of this court disposing of the writ petition referred to above, the petitioner had made a representation dated 03.03.2022 to the Speaker of the Karnataka Legislative Assembly i.e., respondent no.1 requesting according of sanction for prosecution as required under Section 19 of the P.C.Act as against the accused in the private complaint.

16. The Speaker having refused to consider the request for grant of sanction in terms of the communication/endorsement at Annexure-F dated 25.04.2022, the petitioner who is the complainant



made another effort before the Trial Court seeking issuance of appropriate directions to the Speaker, which request was turned down as per order of the Trial Court dated 12.07.2022 and eventually while disposing of the memo of the petitioner dated 10.06.2022 Court has ordered "await sanction by 12.07.2022".

17. Subsequent to such order, the petitioner has filed the present petition on 18.01.2023 seeking for setting aside of the communication/ order of 25.04.2022 at Annexure-"F" and has sought for ancillary relief to direct the Speaker to accord sanction for prosecution.

18. The only legal issue that requires adjudication is the validity of the communication/ endorsement dated 25.04.2022.



19. Confining solely to such legal issue, the Court is required to take note of the observations of the Apex Court in the case of ***P.V.Narasimha Rao and Others v. State (CBI/SPE)***¹.

20. The Apex Court dealt with the aforesaid case by a Constitution Bench of five Judges (Justice S.C.Agrawal, Justice G.N.Ray, Dr.A.S.Anand, Justice S.P.Bharucha and Justice S.Rajendra Babu). The opinion of Justice S.C.Agrawal and Dr.A.S.Anand on such question is found at paragraph 98 which is extracted below:

"98. *On the basis of the aforesaid discussion we arrive at the following conclusion:*

- 1. A Member of Parliament does not enjoy immunity under Article 105(2) or under Article 105(3) of the Constitution from being prosecuted before a criminal court for an offence involving offer or acceptance of bribe*

¹ (1998) 4 SCC 626



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for the purpose of speaking or by giving his vote in Parliament or in any committees thereof.

2. *A Member of Parliament is a public servant under Section 2(c) of the Prevention of Corruption Act, 1988.*
3. *Since there is no authority competent to remove a Member of Parliament and to grant sanction for his prosecution under Section 19(1) of the Prevention of Corruption Act, 1988, the court can take cognizance of the offences mentioned in Section 19(1) in the absence of sanction but till provision is made by Parliament in that regard by suitable amendment in the law, the prosecuting agency, before filing a charge-sheet in respect of an offence punishable under Sections 7, 10, 11, 13 and 15 of the 1988 Act against a Member of Parliament in a criminal court, shall obtain the permission of the Chairman of the Rajya Sabha/Speaker of the Lok Sabha, as the case may be.*

Reading of Point No.3 is self-explanatory.



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21. It is clear from the opinion of Justice S.C. Agrawal and Dr. A. S. Anand as extracted above at point no.3 that in the absence of an authority competent to remove a Member of Parliament and to grant sanction for his prosecution under section 19 (1) of the Prevention of Corruption Act 1988, the court can take cognizance of the offences mentioned in section 19 (1), in the absence of sanction. It is further observed that till such provision is made by the Parliament in that regard the Prosecuting Agency before filing a charge sheet in respect of offences referred to in section 19 is required to obtain permission of the Chairman of the Rajya Sabha / Speaker of the Lok Sabha as the case maybe. Such opinion has been concurred with by Justice G.N. Ray in his separate opinion and the observations made are extracted below:

*" **G.N. RAY, J.-** I had the privilege of reading both the judgments — one by my learned brother Mr Justice S.C. Agrawal and the other by learned brother Mr Justice S.P.*



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Bharucha. Though I respectfully concur with the findings of Mr Justice Agrawal and agree with the reasoning for such findings that (1) a Member of Parliament is a public servant under Section 2(c) of the Prevention of Corruption Act, 1988 and (2) since there is no authority competent to grant sanction for the prosecution of a Member of Parliament under Section 19(1) of the Prevention of Corruption Act, 1988, the court can take cognizance of the offences mentioned in Section 19(1) in the absence of sanction but before filing a charge-sheet in respect of an offence punishable under Sections 7, 10, 11, 12 and 15 of 1988 Act against a Member of Parliament in a criminal court, the prosecuting agency shall obtain the permission of the Chairman of the Rajya Sabha/Speaker of the Lok Sabha, as the case may be, I have not been able to persuade myself to concur with the reasonings and the finding in the judgment of Mr Justice Agrawal that a Member of Parliament does not enjoy immunity under Article 105(2) or 105(3) of the Constitution from being prosecuted before



a criminal court for an offence involving offer or acceptance of bribe for the purpose of speaking or giving his vote in Parliament or in any committee thereof.”

22. Accordingly, it is clear that though sanction cannot be taken, however till such time Parliament makes necessary provision even before charge sheet is filed, the permission of the Speaker of the House is required to be taken. The law laid down though in the context of Members of Parliament could *ipso-facto* be extended to Legislators of the Assembly.

23. In light of the legal position, the trial court while rejecting the memo filed by the complainant which memo was filed seeking the Speaker of the Legislative Assembly to grant sanction, the trial court had observed and ordered “await sanction by 12/07/2022”. In light of Speaker having taken the stand as reflected at Annexure-‘F’, it would be appropriate to set aside the communication at



Annexure-'F' and remit the matter for taking fresh decision in accordance to the discussion made above.

24. Needless to state though section 19 provides for "...accord sanction to prosecute" the legal requirement of the statue regarding obtaining sanction of prosecution cannot be insisted upon, it would suffice if permission is obtained from the Speaker of the House before filing of charge-sheet. Though such permission is required to be obtained by the Prosecution Agency where the proceeding is in the nature of a private complaint, the complainant himself may be called upon to obtain such permission at the same stage where sanction for prosecution has to be obtained as stipulated under Section 19 of the P.C.Act, where the court not having dismissed the complaint under Section 203 intends to proceed further. Thus, when the Trial Court has called upon the complainant to obtain sanction, the response made at Annexure-'F' does not satisfy compliance of the order of the court.



25. Accordingly, the impugned communication dated 25.04.2022 at Annexure-'F' is set aside. The Speaker of the Legislative Assembly to reconsider and pass appropriate orders on the request of the complainant dated 03.03.2022. Such reconsideration will be in accordance with law, in light of the discussion made at paragraphs 20 to 22. All other contentions on merits are kept open.

26. Accordingly the writ petition is disposed of subject to the observations made above.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

NP/-
CT:VP
LIST NO.: 19 SL NO.: 1