

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF JULY, 2015

BEFORE

THE HON'BLE MR. JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL PETITION NO.3292/2012

BETWEEN:

1. SRI B.S. SATYANARAYANA  
S/O B.SUBRAMANYAM  
AGED 55 YEARS  
NO.27, 5<sup>TH</sup> CROSS  
JAVARAI AH GARDENS  
THYAGARAJ NAGAR  
BANGALORE-560028.
2. SRI LINGAMURTHY  
S/O DORAISWAMY  
AGED 52 YEARS  
NO.23, 10<sup>TH</sup> CROSS  
N R COLONY  
BANGALORE-560019.
3. SRI S. SUJAY  
S/O B.S. SATYANARAYANA  
AGED 23 YEARS  
NO.27, 5<sup>TH</sup> CROSS,  
JAVARAI AH GARDENS  
THYAGARAJ NAGAR  
BANGALORE-560028.
4. SRI RAJU @ TEVALU  
S/O CHIKKEGOWDA  
AGED 52 YEARS  
NO.115, 7<sup>TH</sup> CROSS

N R COLONY  
BANGALORE-560019.

5. SRI B N SRIDHAR  
S/O NANJAPPA  
AGED 50 YEARS  
NO.27, 3<sup>RD</sup> MAIN,  
N R COLONY  
BANGALORE-560 019.
6. SRI M R PRAHALAD @ GUNDANNA  
S/O RAMAIAH  
AGED MAJOR  
NO.16, 2<sup>ND</sup> MAIN  
BALAJI COMPLEX, N R COLONY  
BANGALORE-560 019.

... PETITIONERS

(BY SRI C.V. SUDHINDRA, ADV.)

AND:

STATE BY BASAVANAGUDI POLICE

... RESPONDENT

(BY SRI B.VISWESWARAIAH, HCGP)

THIS CRL.P. IS FILED UNDER S.482 CR.P.C., PRAYING  
QUASH THE ENTIRE PROCEEDINGS AND ORDER DATED  
04.02.2012 (VIDE ANNEURE-A) IN C.C.NO.4887/2012 PENDING  
ON THE FILE OF II ACMM, BANGALORE.

THIS CRL.P. IS COMING ON FOR ADMISISON THIS DAY,  
THE COURT MADE THE FOLLOWING:

ORDER

The petitioners, as accused, facing prosecution for the offences punishable under Ss.143, 188 read with 149 of IPC and Ss.72, 74(1) and 122 of the Karnataka Police Act, 1963 in C.C.No.4887/2012 on the file of II ACMM, Bengaluru, filed this petition under S.482 of Cr.P.C., to quash the order passed therein on 04.02.2012 i.e., taking cognizance of the said offences and issuance of the process.

2. Brief facts, which led to the filing of this petition are as under:

The petitioner No.1 is a Corporator, elected to BBMP, from Ward No.154, in the election held during the year 2010. Petitioner No.3 is the son of petitioner No.1 and petitioner Nos.2, and 4 to 6 are the supporters of BJP, on whose ticket, petitioner No.1 was declared as elected on 05.04.2010. It is the case of the prosecution, that on 05.04.2010, after the counting of votes, the result of the election was announced and the petitioner No.1 was

declared as elected. Consequent to the victory, that the petitioners, despite the prohibition order imposed under S.144 of Cr.P.C., 1973, took out a procession and bursted crackers and thereby defied the prohibition. Therefore, an FIR in Crime No.129/2010 for the offences punishable under Ss.143, 188 read with 149 of IPC and Ss.72, 74(i) and 122 of the Karnataka Police Act, 1963 was registered and after investigation, charge sheet was filed on 15.12.2011. Cognizance of the said offences having been taken on 04.12.2012 and C.C.No.4887/2012 having been registered and process having been issued by the Magistrate, this petition was filed to quash the said proceedings.

3. Sri C.V.Sudheendra, learned advocate, contended that the Magistrate has gravely erred in not noticing that the prosecution is barred by limitation and is hit by S.468 of Cr.P.C. He submitted that the date of alleged occurrence being 05.04.2010, when the FIR was registered, the charge sheet was filed on 15.12.2011, that

is with a delay of 260 days. Secondly, notification under S.35 of the Karnataka Police Act having not been issued, cognizance for the offences under Ss.72, 74(1) and 122 of the Karnataka Police Act, 1963 could not have been taken. Thirdly, prosecution under S.188 of IPC is hit by S.195 of Cr.P.C., and hence the cognizance taken is illegal. He submitted that there being gross abuse of process of the Court, the entire proceedings of the case pending before the learned Magistrate is liable to be quashed.

4. Sri B. Visweswaraiah, learned HCGP, having noticed the delay in filing of the charge sheet, unaccompanied by an application seeking condonation of delay, did not support the impugned order.

5. FIR in Crime No.129/2010 for the offences punishable under Ss.143, 188 read with 149 of IPC and Ss. 72, 74(1) and 122 of the Karnataka Police Act, 1963 was registered on 05.04.2010. Charge sheet was filed on 15.12.2011. Cognizance of the said offences was taken on 04.02.2012 and process in C.C.No.4887/2012 was issued

to the petitioners. The offences for which charge sheet was filed are under Ss.143, 188 read with S.149 of IPC. The maximum punishment provided for offence under S.143 of IPC is 6 months and for the offence under S.188, punishment is for one month and whereas, for the offences under Ss.72, 74(1) and 122 of the Karnataka Police Act, 1963, the maximum punishment is one year. Therefore, the charge sheet having been filed on 15.12.2011 is beyond the period of one year.

6. S.468(2)(c) of Cr.P.C., prescribes the period as 3 years, if the offence is punishable with imprisonment for a term exceeding one year, but not exceeding 3 years. In the instant case, the charge sheet clearly mentions that the offences were committed on 05.04.2010. Hence, the bar of limitation contained under S.468(2)(c) clearly applies and therefore, the prosecution is clearly barred by limitation.

7. The object of introducing S.468 Cr.P.C., was to put a bar of limitation on prosecutions and to prevent the

parties from filing cases, after a long time, as it was thought proper, that after a long lapse of time, launching of prosecution may be vexatious, because, by that time, even the evidence may disappear. This aspect has been mentioned in the statement and object for introducing the period of limitation as well as has been made clear by the Apex Court in the case of STATE OF PUNJAB Vs. SARWAN SINGH, (1981) 3 SCC 34, wherein, it has been held as follows:

“ .....The object of Criminal Procedure Code in putting a bar of limitation on prosecutions was clearly to prevent the parties from filing cases after a long time, as a result of which material evidence may disappear and also to prevent abuse of the process of the Court by filing vexatious and belated prosecutions long after the date of the offence. The object which the statutes seek to subserve is clearly in consonance with the concept of fairness of trial as enshrined in Article 21 of the Constitution of India. It is, therefore, of the utmost importance that any prosecution, whether by the State or a private complainant must abide by the letter of law or take the risk of the prosecution failing on the ground of limitation...”

8. Thus, prosecution of the petitioners being barred by limitation, it would be unjust to allow the

process of the Court to be continued against the petitioners. There is abuse of process of law and the Court by respondent in the matter of prosecution of the petitioners. Hence, this is a fit case to exercise power under S.482 Cr.P.C., and quash the impugned order.

In the result, the petition is allowed and the entire proceedings of the case in C.C.No.4887/2012 on the file of II ACMM, Bengaluru is quashed.

Sd/-  
JUDGE

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