

**THE HON'BLE Ms. JUSTICE J. UMA DEVI**

**CRIMINAL PETITION No.540 OF 2020.**

**ORDER:**

This criminal petition is filed under Section 482 of Cr.P.C by the petitioner seeking to quash the proceedings in C.C.No.123 of 2018, on the file of the Judicial Magistrate of the First Class, Penukonda, registered for the offence under Section 188 IPC.

Learned counsel for the petitioner submits that the petitioner is falsely implicated in the offence under Section 188 IPC, based on a false complaint given by the 2<sup>nd</sup> respondent. It is also the contention of the learned counsel for the petitioner that he is an Advocate by profession, he has not attended the public meeting on 22.02.2018 on which date the then Chief Minister visited Penugonda for laying the foundation stone for KIA Motors company near Ammavaripalli Village, Penukonda Mandal. It is also his contention that issuance of promulgated order under Section 30 of the Police Act (for short, "the Act") which is utterly false and created for the sake of implicating the petitioner in the crime. Since no promulgation order as specified under Section 30 of the Act is issued, the question of violating such order does not arise.

This Court on 11.02.2020 directed the learned Public Prosecutor for getting the copy of the order of promulgation said to be issued under Section 30 of the Act. No such copy is produced though ample time is given to the learned Public Prosecutor.

The contention of learned counsel for the petitioner that the provisions of Section 195 Cr.P.C states that no Court shall take cognizance of any offence punishable under Sections 172 to 188 IPC except on a complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.

The proviso to Section 195 Cr.P.C is extracted hereunder:

**“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.-(1)** No

Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860 ), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860 ), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), (except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.)”

Complaint in the present case is given by the police officer of Penugonda police station. The complaint is not filed before the Magistrate by the Nodal Officer appointed by the Election Commission. No material as such is produced to show that an order of promulgation is issued and it is in vogue at the relevant point of time. Since there is a clear bar for taking cognizance of the case as specified under Section 195 Cr.P.C., the proceedings initiated against the petitioner in C.C.No.669 of 2014, can be quashed.

Accordingly, the criminal petition is allowed quashing the proceedings in C.C.No.123 of 2018, on the file of the Judicial Magistrate of the First Class, Penukonda, registered for the offence under Section 188 IPC.

Consequently, miscellaneous petitions pending, if any, shall also stand disposed of.

Date.29.02.2020.  
Gk

---

**J. UMA DEVI, J**

**THE HON'BLE Ms. JUSTICE J. UMA DEVI**

**CRIMINAL PETITION No.540 OF 2020.**

**Date:29.02.2020.**

Gk.