

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.7942 OF 2024

DATE: 29.06.2026

Between :

Mr. P. Mohammed Iliyas

... Petitioner/Accused

AND

The State of Telangana, rep., by the Public Prosecutor, High Court of Telangana, Hyderabad (Through the Station House Officer, P.S., Alampur)., and another.

... Respondents

ORDER:

This Criminal Petition is filed under section 482 of the Code of Criminal Procedure (for short "CrPC") seeking to quash the proceedings against the petitioner is the sole accused in Crime No.130 of 2023 of Alampur police station which culminated in C.C. No.115 of 2024 on the file of the learned Judicial First Class Magistrate at Alampur, Jogulamba, Gadwal District, registered for the offences under Sections 129 of Representation of Peoples Act, 1951 & Section 171(C)(1), 505(1)(b) of IPC of the Indian Penal Code (for short, "IPC").

2. Heard M/s. P. Amarender, learned counsel appearing for the petitioner; learned Assistant Public Prosecutor appearing for

respondent No.1-State; and Mr. Ravendhar Malothu, learned counsel appearing for respondent No.2.

3. The prosecution case, in brief, is that respondent No.2, Councilor of Alampur lodged a complaint alleging that during the election period filed Model Code of Conduct was in force, the petitioner was working as Government Teacher made certain derogatory acts on social media against the people of Alampur and a political candidate. Thus, the crime.

4. Learned counsel appearing for the petitioner submits that the allegations contained in the complaint and the charge sheet if accepted in their entirety do not constitute the alleged offence. It is contended that the Representation of Peoples Act is attracted only in respect of the Election officers, clerks, agents or to her persons performing the duties in connection with the conduct of elections and maintaining secrecy of voting whereas the petitioner is merely a Government Teacher and was not entrusted with or discharging with any election duty at the relevant point of time.

5. Learned Counsel for the petitioner further submits that there are no allegations of the charge sheet that the petitioner employed force, coercion, threats or inducement or any other unlawful means to interfere with the pre-exercise of electoral right so as to attract the ingredients of the offence of undue influence. It is argued that the

prosecution has not placed any material to demonstrate that any voter was influenced, persuaded or prevented from exercising his electoral roles on account of the alleged social media post attributed to the petitioner. According to him, the complaint has been instituted at the behest of political rivals and actuated by malafide intention with a view to harass and victimizing. It is thus contended that continuation of proceedings in the Calendar Case the absence of any prima facie material disclosing commission of the alleged offence would amount to abuse of process of law and would subject the petitioner to unnecessary hardship and harassment. Therefore, he prays for quash the criminal proceedings against him.

6. Learned counsel appearing for 2nd respondent submits that the petitioner is a sole accused and the defacto-complainant is an elected Councilor for Ward No.4 Alampur and during the Telangana Assembly General Elections 2023, the petitioner who is Government Teacher intentionally circulated objectionable to social media posts describing the people of Alampur as 'Donkeys' and that the BRS MLA candidate was also a 'Donkey'. According to the learned Counsel, the subject posts were made during the period when the Model Code of Conduct was in force and were intended to support the rival political parties and influenced the electoral atmosphere. It is submitted that on the basis of his complaint, Crime was registered and completion of investigation, a

charge sheet was laid disclosing prima facie case against the petitioner. He further pleads that the elections made in the instant petition are false, baseless and contrary to the materials gathered in the investigation and that the petitioner has approached this Court without disclosing true and complete facts. It is further submitted that the petitioner is being a Government Teacher allegedly engaged in election related duties violated the Mode Code of Conduct by making politically objectionable social media post during election period. According to him, the issues involved disputed questions of fact which require appreciation of evidence and can be effectively adjudicated only during the course of trial and not in the proceedings invoking the inherent jurisdiction of this Court in this petition. Further, the Court has taken cognizance of the offence and summons have been issued to the witnesses and therefore interference at this stage is unwarranted and quashing the proceedings at the threshold would result in serious prejudice to the complainant and the people of Alampur and would stifle a legitimate prosecution. Accordingly, he prayed for dismissal of the petition and the proceedings be permitted to be continued in accordance with law.

7. I have perused the material on record.

8. A careful examination of the material collected during the course of investigation discloses that the petitioner is admittedly serving as a

Government Teacher in a Primary School situated at Gadwal. The prosecution originates from a written complaint lodged by the de facto complainant, who is a Councilor of Alampur Town and is stated to be associated with the BRS Party. The essence of the accusation is that, during the period when the Model Code of Conduct was in force in connection with the Telangana Legislative Assembly General Elections, 2023, the petitioner uploaded and circulated certain objectionable posts on Facebook containing derogatory remarks against the people of Alampur and the BRS candidate contesting from the concerned Assembly Constituency. The prosecution alleges that on 20.11.2023, the petitioner shared Facebook posts and videos carrying captions to the effect that the people of Alampur were "donkeys", that the BRS candidate was a "donkey", that the electorate ought not to vote for the BRS Party, and that persons voting in favour of the said party were also "donkeys".

9. The investigation further reveals that statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973. The de facto complainant (L.W.1) stated that while browsing Facebook, he noticed a post allegedly shared by the petitioner suggesting that only "donkeys" would vote for the BRS candidate. He asserted that the petitioner, despite being a Government Teacher, indulged in political propaganda during the election period. L.Ws.2 and

3 substantially corroborated the statement of L.W.1 by stating that they had viewed the impugned Facebook posts and that the petitioner had circulated content criticising the BRS candidate and the electorate during the subsistence of the Model Code of Conduct.

10. The Investigating Officer collected screenshots of the alleged Facebook posts, obtained communications from the Returning Officer, Mandal Educational Officer and District Educational Officer confirming the petitioner's status as a Government Teacher, and seized a VIVO Y-21 mobile phone from the petitioner under a seizure panchanama dated 10.12.2023, alleging that the said device had been used for making the impugned posts. Upon completion of the investigation, the Investigating Officer formed an opinion that the petitioner, being a Government servant, had violated the Model Code of Conduct by disseminating objectionable political content through social media during the election period and accordingly laid a charge-sheet.

11. Having examined the allegations contained in the complaint, the statements recorded under Section 161 Cr.P.C., the seizure panchanama, screenshots of the alleged Facebook posts and the material accompanying the charge-sheet, this Court is required to determine whether, even if the entire prosecution case is accepted at its face value, the essential ingredients of the offences alleged are made out against the petitioner.

12.1. Section 129 of the Representation of the People Act, 1951, provides punishment for breach of official duty in maintaining secrecy of voting. The provision applies specifically to election officers, clerks, agents or other persons performing duties in connection with recording or counting votes who are bound by the obligation of secrecy imposed under Section 128 of the Act. A plain reading of Sections 128 and 129 of the Act demonstrates that criminal liability thereunder arises only where a person entrusted with election related duties violates the statutory obligation of preserving secrecy of voting.

12.2. In the present case, the prosecution material merely establishes that the petitioner is a Government Teacher. Though it is vaguely alleged that he was engaged in election-related activities, there is no material whatsoever to demonstrate that he was appointed as a Returning Officer, Presiding Officer, Polling Officer, Counting Staff or any other person entrusted with duties attracting the obligation under Sections 128 and 129 of the Act. Mere status as a Government servant or an allegation of violation of the Model Code of Conduct cannot, by itself, attract penal consequences under Section 129 of the Representation of the People Act. Penal statutes must receive strict construction, and no person can be subjected to criminal prosecution unless the statutory ingredients constituting the offence are clearly established.

13.1. Section 171-C IPC defines "undue influence at elections" and contemplates voluntary interference or attempted interference with the free exercise of any electoral right. The Explanation appended to the provision clarifies that a declaration of public policy, a promise of public action, or the mere exercise of a legal right without intent to interfere with electoral freedom does not constitute undue influence. The Supreme Court has consistently held that criminal statutes must be interpreted strictly and that every constituent element of an offence must be prima facie disclosed before criminal prosecution can be permitted to continue.

13.2. In the present case, the prosecution rests solely upon social media posts allegedly containing derogatory remarks against a political candidate and certain sections of the electorate, coupled with an appeal not to vote for a particular political party. Significantly, there is no allegation that the petitioner threatened any elector, employed coercion, exercised social pressure, offered inducement, resorted to intimidation, or prevented any voter from exercising his franchise. Equally, no material has been produced to demonstrate that any voter was actually influenced, intimidated, persuaded, or restrained from exercising his electoral rights on account of the impugned posts.

13.3. Merely criticising a candidate, expressing political opinions, or even employing offensive or intemperate language, however

condemnable such conduct may be in the realm of political discourse, would not ipso facto amount to "undue influence" within the meaning of Section 171-C IPC unless accompanied by elements of coercion, intimidation or unlawful interference with electoral freedom.

14.1. Section 505(1)(b) IPC criminalises statements made with intent to cause, or which are likely to cause, fear or alarm to the public or any section thereof, whereby a person may be induced to commit an offence against the State or against public tranquility.

14.2. The Supreme Court in **Bilal Ahmed Kaloo v. State of Andhra Pradesh**, (1997) 7 SCC 431, observed that the mens rea and tendency of the impugned publication to disturb public tranquility are indispensable ingredients for attracting liability under Section 505 IPC. Similarly, in **Manzar Sayeed Khan v. State of Maharashtra**, (2007) 5 SCC 1, it was held that the prosecution must establish that the publication was made with the requisite intention and possessed a proximate tendency to create public disorder.

14.3. In the present case, the prosecution has not brought on record any material indicating that the alleged posts were likely to cause fear or alarm amongst the public, induce commission of offences, or disturb public tranquility. The allegations primarily disclose political criticism and disparaging comments directed against a candidate and his supporters. In the absence of material demonstrating intention or

tendency to incite public disorder, the foundational ingredients of Section 505(1)(b) IPC remain conspicuously absent.

15.1. The prosecution heavily relies upon the alleged violation of the Model Code of Conduct. However, it is well settled that the Model Code of Conduct is essentially a consensual set of guidelines evolved by the Election Commission of India for regulating political behaviour during elections. Unless a specific statutory provision prescribing penal consequences is attracted, breach of the Model Code of Conduct by itself does not constitute a criminal offence.

15.2. The Supreme Court in *Election Commission of India v. Ashok Kumar*, (2000) 8 SCC 216, recognised the importance of the Model Code of Conduct in ensuring free and fair elections; however, the Code does not, in itself, create substantive penal offences.

16. It is equally well settled that the inherent powers preserved under Section 482 Cr.P.C. (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) are intended to prevent abuse of the process of Court and to secure the ends of justice. In *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, the Supreme Court illustratively enumerated categories of cases wherein criminal proceedings may be quashed, including situations where the allegations contained in the complaint, even if accepted in their entirety, do not prima facie

constitute any offence, or where the proceedings are manifestly attended with mala fides.

17. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that even if the prosecution case is accepted in its entirety, the essential ingredients of the offences punishable under Section 129 of the Representation of the People Act, Section 171-C IPC and Section 505(1)(b) IPC are not made out against the petitioner.

18. Accordingly, continuation of the criminal proceedings would amount to an abuse of the process of law and would unnecessarily subject the petitioner to the rigours of a criminal trial. The interests of justice would therefore warrant exercise of the inherent jurisdiction of this Court to quash the proceedings.

19. Consequently, the Criminal Petition is allowed and the proceedings in C.C. No.115 of 2024 pending on the file of the Judicial First Class Magistrate at Alampur, Jogulamba Gadwal District, are hereby quashed insofar as they relate to the petitioner/Accused.

Miscellaneous applications pending, if any, shall stand closed.

Date: 29.06.2026

N.TUKARAMJI, J

MRKR

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.7942 OF 2024

DATE: 29.06.2026

MRKR