

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

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**Criminal Petition Nos.6250 OF 2019 and 6099 OF 2021**

Between:

Smt. Golkonda Umadevi & other                      ... Petitioners/(A-1&A-2)

And

1. The State of Telangana,  
Rep. by its Public Prosecutor,  
High Court at Hyderabad.

2. Enti Ramana Reddy                                      ... Respondents /De facto  
complainant

DATE OF JUDGMENT PRONOUNCED:                      22.08.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments?    | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals        | Yes/No |
| 3 | Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgments? | Yes/No |

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K.SURENDER, J

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.P. Nos. 6250 of 2019 and 6099 of 2021**

% Dated 22.08.2023

# Smt. Golkonda Umadevi & other ... Petitioners/(A-1&A-2)

And

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High Court at Hyderabad.

2. Enti Ramana Reddy ... Respondents/De facto  
Complainant

**! Counsel for the Petitioner:** Smt. Ayesha Saba & Sri. V.Raghunath  
**^ Counsel for the Respondents:** Sri T.V.Ramesh & Sri. Public  
Prosecutor

**>HEAD NOTE:**

**? Cases referred**

- 1 1992 Suppl. (1) SCC 335
- 2 2005 (2) ALT (CrI.) 38 (A.P.)
- 3 2014 (1) ALD (CrI.) 768 (AP)
- 4 2007 (1) ALD (CrI.) 818 (AP)

**THE HON'BLE SRI JUSTICE K. SURENDER****CRIMINAL PETITION Nos. 6250 of 2019 and 6099 OF 2021****COMMON ORDER:**

Criminal Petition No.6250 of 2019 was filed by the petitioners/A1 & A2, questioning the proceedings in C.C.No.477 of 2019 on the file of Judicial First Class Magistrate, Parkal, Warangal District, which was filed under Section 420, 465, 468, 471 and 120 (B) r/w.34 of the Indian Penal Code. No interim orders were passed by this Court in the said petition. While the said application was pending, the petitioners filed CrI.P.No.6099 of 2021 for the very same relief.

2. Briefly, the case of the prosecution is that the petitioners have colluded and produced false Date of Birth Certificates of their three children only to overcome the restriction imposed under Section 19(3) of the A.P.Panchayat Raj Act, 1994. The said provision disqualifies a person from contesting the elections to Panchayat Raj Bodies, if the third child is after one year of the commencement of the A.P.Panchayat Raj Act, 1994. The said Act came into force from 30.05.1994.

3. According to the prosecution, the first child of the accused was born on 08.11.1995, second child was born on 26.11.1997 and the third child was born on 08.08.1999. However, the date of birth certificates were obtained as 08.01.1992, 13.12.1993, 30.01.1995 in

respect of their three children to overcome the restriction imposed for contesting the elections.

4. The Police initially registered the case under Section 193, 196 and 420 r/w.34 of the Indian Penal Code. Having investigated into the case, the Police found that false Date of Birth Certificates were filed by the Accused, for which reason, they are liable for punishment under Section 465, 468, 471, 420 and 120 (B) r/w.34 of the Indian Penal code.

5. The learned Senior Counsel Sri V.Raghunath, appearing for the petitioners submits that there is a prohibition under Section 195 of Cr.P.C. from registering the offences punishable under Sections 193 to 195 of the Indian Penal code. Further, the election of the 1<sup>st</sup> petitioner was questioned by the 2<sup>nd</sup> respondent which is pending adjudication vide Election O.P.No.1/2019 before the District Court at Warangal on the very same issue. Since the question in the said proceedings is being adjudicated on the very same grounds, the criminal proceedings cannot continue. He further submits the defacto complaint filed petition vide IA.No.2131 of 2019 in Election OP.No.1 of 2019 before the Election Tribunal for receiving additional documents and the same was allowed. When the said order was questioned before this Court in CRP.No.3113 of 2019, this Court had set aside the order passed by the Elections Tribunal vide order dated 18.02.2020. Learned Senior Counsel further submits that since the

proceedings are going on before the Election Tribunal, parallel criminal proceedings are nothing but abuse of process of the Court and liable to be quashed.

6. The learned Senior Counsel for the petitioners relied on the Judgment of the Honourable Supreme Court in ***State of Haryana and others v. Bhajan Lal***<sup>1</sup> and argued that where a criminal proceeding is manifestly attended with *malafide* intention and maliciously instituted for wreaking vengeance, the proceedings have to be quashed.

7. He also relied on the Judgment of Honourable Supreme Court in ***Salib@Shalu@Salim v. State of U.P. and others*** in CrI.A.No.2344 of 2023 (arising out of SLP (Criminal) No.3152 of 2023), dt.08.08.2023, and argued that the Honourable Supreme court has enlarged the scope of the inherent powers under Section 482 of the Cr.P.C. and the Court is at liberty not only to confine to the allegations made in the complaint but also can look into the overall circumstances leading to the registration of the crime and the material collected during investigation.

8. On the other hand learned counsel appearing for the 2<sup>nd</sup> respondent would submit that the proceedings before the Election Tribunal have nothing to do with the criminal proceedings. If any acts

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<sup>1</sup> 1992 Suppl.(1) SCC 335

make out a criminal offence and also gives rise to civil remedy, both can be proceeded with. He relied on the Judgments of this Court in i) ***P.Prem Kumar and another v. State of A.P.***<sup>2</sup>; ii) ***A.V.Santosh Kumar v. Saijid Hussain and others***<sup>3</sup>; iii) ***Chancharapu Madhusudhan Reddy v. State of A.P. and another*** <sup>4</sup>.

9. The allegations against the petitioners is that to overcome the restriction imposed in the Panchayat Raj Act, from contesting elections, the petitioners who have a third child, have taken date of birth certificates from the competent authority by giving false undertaking regarding the dates of birth.

10. The Dates of Birth of the three children are 08.11.1995, 26.11.1997 and 08.08.1999. However, certificates were taken reflecting the dates as 08.01.1992, 13.12.1993 and 30.01.1995. The said certificates were deliberately taken to overcome the prohibition imposed in the enactment from contesting Panchayat Raj elections.

11. The argument of the learned Senior Counsel that crime cannot be registered in view of prohibition under Section 195 of Cr.P.C., cannot be accepted. The prohibition under Section 195 is for the Court taking cognizance of the offences mentioned in the said provision and does not restrict registration of FIR.

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<sup>2</sup> 2005(2) ALT (CrI.) 38 (A.P.)

<sup>3</sup> 2014(1) ALD (CrI.) 768 (AP)

<sup>4</sup> 2007(1)ALD (CrI.) 818 (AP)

12. Though the proceedings are pending before the Election Tribunal questioning the correctness or otherwise of the election, of the 1<sup>st</sup> petitioner and the Date of Birth Certificates of three children are also subject matter in the said case, it would not bar the Police from filing a charge sheet on the basis of a criminal complaint.

13. According to the investigation, the petitioners had falsely claimed before the concerned authority regarding the dates of birth of their children and obtained certificates.

14. In the said circumstances, the act of obtaining such false certificates on the basis of false declaration is in itself an offence and can be separately tried by the competent criminal court. Though the correctness or otherwise of the certificates would be an issue in the election tribunal, such proceedings before the Election Tribunal cannot bar the proceedings before the Criminal Court. The proceedings in the Criminal Court are to ascertain whether there was any misrepresentation by the petitioners and consequent inducement by the petitioners to secure false Date of Birth Certificates. The proceedings before the Election tribunal are regarding the suppression of correct information for contesting the election and the subsequent declaration of elected person.

15. For the aforementioned reasons, the petitioners fail in the present proceedings and both the petitions are liable to be dismissed.

16. As seen from the record, Crl.P.No.6520 of 2019 was filed and no interim order was passed by this Court. However, Crl.P.No.6099 of 2021 was again filed and interim orders were granted by this Court. It may be that the petitioners while engaging their counsel have not informed the counsel about the earlier Crl.P.No.6250 of 2019. However, such practice of filing subsequent application when no orders are granted in the initial application is deprecated. Petitioners are imposed costs of Rs 10,000/-. The said amount shall be paid in favour of the State Legal Services authority.

17. Accordingly, both the Criminal Petitions are dismissed.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

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**K.SURENDER, J**

Dt: 22.08.2023

Note: LR copy to be marked.

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**THE HON'BLE SRI JUSTICE K. SURENDER**

**CRIMINAL PETITION Nos. 6250 of 2019 and 6099 OF 2021**

**Date: 22.08.2023**

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