

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2208 OF 2019

C/W

CRIMINAL PETITION NO.7959 OF 2018

IN CRL.P NO.2208/2019:

BETWEEN:

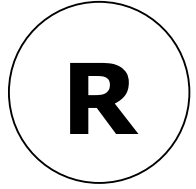
1. M.S. REDDY
AGED ABOUT 62 YEARS
S/O MR. BASI REDDY
VICE PRESIDENT
(FINANCE) & COMPANY SECRETARY
M/S. LE MERIDIAN, BENGALURU
BY IT OWNER:
M/S. MAC CHARLES (I) LTD.,
A COMPANY REGISTERED
UNDER THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
P.B.NO.174, NO.28, SANKEY ROAD
BENGALURU-560 052.

...PETITIONER

(BY SRI. SATYANAND B.S., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY THE POLICE INSPECTOR
HIGH GROUNDS, BENGALORE
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001.
2. MR. SEETHARAM
AGED ABOUT 45 YEARS
C/O THE ASST. REVENUE OFFICER



BBMP, VASANTHANAGAR SUB-DVN.,
QUEENS ROAD,
BENGALURU-560052

...RESPONDENTS

(BY SRI. M. DIVAKAR MADDUR, HCGP FOR R1;
SRI. ARAVIND M. NEGLUR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.32777/2018, ON THE FILE OF THE 8TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, INCLUDING CHARGE SHEET DATED 13.12.2018, COMPLAINT AND THE FIR DATED 01.10.2018, REGISTERED BY THE HIGH GROUNDS POLICE STATION, IN CRIME NO.138/2018, FOR THE OFFENCE UNDER SECTION 3 OF KARNATAKA OPEN PLACES (PREVENTION OF DISFIGUREMENT) ACT, 1981.

IN CRL.P NO.7959/2018:

BETWEEN:

1. M/S. LE MERIDIAN, BENGALURU
BY ITS OWNER:
M/S. MAC CHARLES (I) LTD.,
A COMPANY REGISTERED
UNDER THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT P.B.NO.174, NO.28, SANKEY ROAD,
BENGALURU - 560052
REPRESENTED BY ITS VICE PRESIDENT
(FINANCE) & COMPANY SECRETARY
MR. M.S. REDDY

...PETITIONER

(BY SRI. B.S. SATYANAND.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY THE POLICE INSPECTOR
HIGH GROUNDS, BENGALURU
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
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2. MR. SEETHARAM
AGED ABOUT 45 YEARS
C/O THE ASST. REVENUE OFFICER, BBMP
VASANTHANAGAR SUB-DVN.,
QUEENS ROAD
BENGALURU - 560052

...RESPONDENTS

(BY SRI. M. DIVAKAR MADDUR, HCGP FOR R1;
SRI. ARAVIND M. NEGLUR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE COMPLAINT AND THE FIR DATED 01.10.2018, REGISTERED BY THE HIGH GROUND POLICE STATION, IN CRIME NO.138/2018, PRESENTLY ON THE FILE OF THE 8TH ACMM AT BENGALURU, FOR THE OFFENCES PUNISHABLE UNDER SECTION 3 OF THE KARNATAKA OPEN PLACE (PREVENTION OF DISFIGUREMENT) ACT.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 10.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard learned counsel for the petitioners, learned High Court Government Pleader for respondent No.1 and learned counsel for respondent No.2.

2. CrI.P.No.2208/2019 is filed by the petitioner to quash entire criminal proceedings in C.C.No.32777/2018 on the file of 8th Additional Chief Metropolitan Magistrate, Bangalore

including charge sheet dated 13.12.2018, complaint and the FIR dated 01.10.2018 registered by the High Grounds Police Station, in Crime No.138/2018 for the offence under Section 3 of the Karnataka Open Places (Prevention of Disfigurement) Act, 1981 ('KOPD Act' for short).

3. Crl.P.No.7959/2018 is filed to quash complaint and FIR dated 01.10.2018 registered by the High Grounds Police Station, in Crime No.138/2018 presently on the file of the 8th Additional Chief Metropolitan Magistrate, Bangalore for the offence under Section 3 of KOPD Act.

4. In Crl.P.No.7959/2018 filed by petitioner on behalf of M/s. Le Meridian, Bangalore, M/s. Mac Charles (I) Ltd., a company registered under the Companies Act, 1956, in the cause title, address is mentioned. But, the petitioner mentioned in the petition that he is a Vice-President (Finance) and Company Secretary and while filing this petition, it is contented that on 12.01.2015, a demand notice was issued by respondent No.2 demanding payment of Hoardings and Billboards Taxes to an extent of Rs.86,800/- in respect of 1 number of Hoarding allegedly measuring 450 ft. erected by the petitioner on the property belonging to the petitioner. The second notice was

issued on 19.08.2016 by the respondent No.2 demanding payment of illuminated Hoardings and Billboards taxes to an extent of Rs.7,13,435.52/- till June, 2026 in respect of 1 number of Hoarding allegedly measuring 20 x 15 sq. ft. erected by the petitioner on its property for years from 2009-2010 to 2015-2016. Further, direction was issued to remove the said Hoarding and structure displayed by the petitioner immediately. Hence, a writ petition was filed on 20.12.2016 challenging the demand notices and this Court was pleased to grant an interim order of stay of both the demand notices, subject to depositing 50% of the demand notices within 1 week from the date of order and relies upon the said order as well as communication of the interim order to the respondent No.2 and so also, compliance of the directions of the Court. When things stood thus, on 13.08.2018, respondent No.2 again started pressurizing the petitioner to remove the Hoarding and structure inspite of interim order and notice was also issued to respondent No.2 and Joint Commissioner and one more notice was issued on 24.08.2018 to the Executive Engineer of the BBMP and despite bringing to knowledge of various authorities of BPMP and communication of interim order, kept on pressurizing the petitioner to remove the said Hoarding, failing

which they will lodge a complaint. Ultimately, case is registered in Crime No.138 of 2018. It is contented that respondent No.2 and other officials illegally, without any authority, as against the order of this Court, proceeded to lodge the complaint and case has been registered. Hence, it is contented in this petition that very initiation of criminal proceedings against the petitioner by respondent No.2 is false, frivolous and illegally acted upon in registering the criminal case and inspite of the respondent No.2 being bound by the order of this Court, in utter disrespect of the order, a criminal prosecution is initiated by registering the FIR. The civil dispute is given a criminal colour and ought not to have invoked criminal proceedings when the matter was ceased before this Court. It is also contented that it will not attract Section 3 of KOPD Act and the same cannot be invoked. It is not the case of respondent No.2 that petitioner has disfigured in the open place i.e., a public place as stipulated under the said Act. It is also not the case of respondents that this petitioner has set up a Hoarding and structure on place/premises that is belonging to the neighbour of some other public place not belonging to the petitioner. But it is within the premises of the petitioner and none of the ingredients of the said section is made applicable to the facts of

the case. It is nothing but an abuse of process of law initiating criminal proceedings and the same is required to be quashed.

5. In Crl.P.No.2208/2019 which is also filed by the very same petitioner in his personal capacity as Finance (VP) and Company Secretary of M/s. Le Meridian, Bangalore. But, it is contended that wrongly designated as Assistant Manager Finance of by its Owner, M/s. Mac Charles (I) Ltd., a company registered under the Companies Act, 1956. The same facts are stated in this petition as well. But, ground was taken in this petition that summons were issued by the learned Magistrate in a mechanical manner and without application of mind to the given set of facts on hand and the same is nothing but an abuse of process. The very issuance of summons based on a printed format in itself is sufficient to show that entire order issuing summons is nothing short of mechanically signing the order sheet. It is contented that petitioner is only an employee in the company viz., M/s. Le Meridian, Bangalore, by its owner M/s. Mac Charles (I) Ltd. working in the Finance Department of the company. The petitioner solely could not have been charge sheeted for the alleged offence said to have been committed by the company. It is contented that as per the complaint, lodged by the complainant, it is alleged that company by name M/s. Le

Meridian, Bangalore has committed the offence under Section 3 of the KOPD Act and this petitioner being an employee of the company has been charge sheeted and has been directed to undergo trial. It is contented that without making the company a party to the proceedings as the prime accused and without charge sheeting the said company, charge sheeting only an employee of the said company is not maintainable in the eye of law and on that ground itself, the entire criminal case requires to be quashed. Learned counsel also would contend that under Section 6 of the KOPD Act, it is the company which is the prime accused and having not being made the company a party to the proceedings, the entire complaint is not maintainable. The counsel also contended that drawing up of mahazar by the police authorities cannot be before the registration of the FIR and complaint. Admittedly, the FIR was registered on 01.10.2018 and mahazar was drawn on 29.09.2018. This in itself is sufficient to show that there is an abuse of process of law by the respondents only with an intention to harass the petitioner and to violate the orders of this Court passed in W.P. and the allegations are nothing but cooked-up story. The respondent No.1, who is to uphold the rule of law, has completely ignored legal duties and responsibilities. The

initiation of complaint and FIR is in the nature of giving a criminal color to a civil case which has entered into an order in favour of the petitioner. The said writ petition is pending for consideration and even during the pendency of the said writ petition, invoked the offence under Section 3 of KOPD Act, 1981 and similar grounds are also urged in the said petition that this Hoarding is made in the private property belonging to the petitioner. The counsel referring the grounds urged in both the petitions would vehemently contend that the very approach of the respondents is erroneous and even inspite of accepting 50% of the demand notices, proceeded to remove the Hoarding without arraigning the company as party under Section 6 of KOPD Act and making this petitioner as Finance Manager is bad in law.

6. Learned counsel appearing for the petitioners in support of his argument also brought to notice of this Court order passed in **W.P.No.65190/2016** dated **05.02.2025** while disposing the writ petition comes to the conclusion that petitioner has not been heard in the matter before passing the impugned demand and it would be appropriate to direct the petitioner to treat the demand notice at Annexure-H as a show-cause notice and file its objections before respondent No.2

within a period of three weeks and thereafter consider the objections and pass appropriate order after hearing the petitioner. Until then, interim order granted by the Court will enure to the petitioner's benefit. Accordingly, the objection is filed and the decision is not yet taken.

7. The counsel also brought to notice of this Court KOPD Act, particularly brought to notice of this Court Section 3- Penalty for unauthorised disfigurement by advertisement and the same will not attract in the case on hand and particularly, he brought to notice of this Court, Section 3(ii) of the KOPD Act. The counsel also brought to notice of this Court Section 6 of KOPD Act, wherein also if the person committing any offence punishable under this Act is a company, every person who, at the time when the offence was committed, was in charge of; and responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and this petitioner being the Finance Manager, he cannot be prosecuted without arraigning the company.

8. Per contra, learned counsel appearing for respondent No.2-BBMP would vehemently contend that demand

notices were issued and it is very clear that demand was issued as a penalty for unauthorised advertisement is concerned. The counsel also would contend that initiation of criminal proceedings is not based on demand notice and interim order granted in the writ petition is also not in respect of complaint is concerned and the same is in respect of demand notices are concerned. The counsel would contend that complaint dated 01.10.2018 is very clear that notices are issued and instructions are given to remove the same voluntarily and publication is also made in Kannada and English newspapers on 13.08.2018 and 15.08.2018 and specifically stated that owner of the said premises bearing No.28A did not remove the same which amounts to violation of KOPD Act. Hence, sought for criminal prosecution against the petitioner. The counsel also would vehemently contend that very contention that Section 3(ii) of KOPD Act applies cannot be accepted, whether the Hoarding was made inside or outside the premises is a matter of trial and it is a clear violation of Section 3 of KOPD Act. Invoking of Section 6 of KOPD Act is also a matter of trial and whether he is in charge of the affairs of the company or not cannot be considered at this stage by this Court.

9. In reply to this argument of learned counsel for respondent No.2-BBMP, learned counsel appearing for the petitioners, would vehemently contend that regarding demand is concerned, there is a dispute and the same is questioned before the Court. Even, the Hoarding is protected by this Court by granting the interim order and while disposing of the writ petition also, it clear made clear that interim order will be valid till the decision is taken, but decision is not yet taken. The counsel also would contend that Hoarding is displayed in the property belonging to the petitioner and the same is not disputed that the property not belongs to the petitioner.

10. Having heard learned counsel appearing for the petitioners and also learned counsel appearing for respondent No.2-BBMP, the very case of the petitioners before this Court is initiation of criminal proceedings is bad in law and the same is abuse of process of law. It is also not in dispute that Hoarding was displayed and also counsel brought to notice of this Court photographs and the photographs clearly disclose that the same is inside the compound of the property belonging to the petitioner and mainly refers the document of Annexure-N series. No doubt, the same discloses that it is within the premises of the petitioner, it is also not the case of the

respondent No.2 that the same is in the property of the BBMP and in the complaint, specifically mentioned the property number as 28A. But, petitioner claims that it is property No.28 and not 28A. But, no dispute that the Hoarding is in the property of the petitioner.

11. Now, this Court has to consider the very proviso of Section 3 of KOPD Act and the very penal provision is invoked against the petitioner in both the petitions. In view of the said contention of the petitioner that there cannot be prosecution under Section 3 KOPD Act, this Court would like to extract Section 3 of KOPD Act which reads as hereunder:-

"3. Penalty for unauthorised disfigurement by advertisement.- *Whoever by himself or through another person affixes to, or erects, inscribes or exhibits on, any place open to public view any advertisement without the written permission of the local authority having jurisdiction over such area, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both:*

Provided that nothing in this section shall apply to any advertisement which,-

(i) is exhibited within the window of any building if the advertisement relates to the trade, profession or business carried on in that building; or

(ii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

(iii) relates to the name of the land or building, upon or over which the advertisement is exhibited, or to name of the owner or occupier of such land or building; or

(iv) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration.

(v) is affixed to or exhibited on any ancient and historical monument declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act XXIV of 1958)".

12. Having considered Section 3 of KOPD Act, it is very clear that whoever by himself or through another person affixes

to, or erects, inscribes or exhibits, any place open to public view any advertisement, without the written permission of the local authority, having jurisdiction over such area, shall be punished with imprisonment of either description for a term which may extend to 6 months or with fine which may extend to Rs.1,000 or with both. However, further proviso is very clear that nothing in this section shall apply to any advertisement in terms of Section (i) and (ii) of the said Act and the same relates to trade, since learned counsel appearing for the petitioner relies upon Section 3(ii) of KOPD Act which relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same.

13. The counsel also relies upon Section 6 of KOPD Act contending that company ought to have been made as accused in the compliant and there cannot be any proceedings against the employee of the company and company shall be deemed to be guilty of the offence. Hence, this Court would like to extract Section 6 of KOPD Act, which reads as hereunder:

"6. Offences by companies.- (1) *If the person committing any offence punishable under this Act is a company, every person who, at the time when the offence was committed, was in charge of; and responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) *Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

Explanation.-*For the purpose of this section,-*

(a) 'company' means any body corporate and includes a firm or other association of individuals ; and

(b) 'director' in relation to a firm, means a partner in the firm".

14. Having taken note of proviso to Section 3 as well as Section 6 of KOPD Act, this Court has to look into the material, particularly complaint dated 01.10.2018, wherein specific averment is made in the complaint that in both Kannada and English newspaper, publication was made to remove the same on or before 30.08.2018 and also particularly, mentioned the property number as 28A. In spite of publication being made and opportunity being given, the same was not removed and hence, it attracts Section 3 of KOPD Act. Having considered this complaint, case is registered and mahazar was also drawn. The police also investigated the matter and filed the charge sheet.

15. Now the question before this Court is that a writ petition is filed before this Court and the same is in respect of demand made and the same is stayed, subject to deposit of 50% and the same is complied by the petitioner. The petitioner throughout has taken the contention that in spite of an order passed by the Court, proceeded to remove the same. It is also

not in dispute that already Hoarding is removed and the same is not in existence. It is also not in dispute that in terms of the order passed in writ petition, 50% of the amount is also paid.

16. Now, the question before this Court is with regard to invoking of criminal prosecution against the petitioner and having read Section 3 of KOPD Act, it is very clear that before giving such advertisement by way of hoarding, the petitioner has to take permission from the local authority having jurisdiction over such area. If such permission is not taken, they shall be punished with imprisonment. In the case on hand, petitioner has not taken such permission before erecting the Hoarding.

17. This Court would like to rely upon judgment of the Apex Court in **LINKS ADVERTISERS AND BUSINESS PROMOTERS vs. COMMISSIONER, CORPORATION OF THE CITY OF BANGALORE** reported in **(1977) 3 SCC 204** and the same is in respect of advertisements on hoardings within railway premises but fronting public street and visible to public view, liability to tax does not depend on ownership of hoarding but on situs. The Apex Court in this judgment in detail discussed with regard to if the advertisement fronts the street

or faces the street even if it is within the railway premises, it will be exigible to tax which is discussed in paragraph No.8. The Apex Court also in the judgment in paragraph No.10 comes to the conclusion that the word "fronting" has been used in the proviso not in any legal or technical sense but as used in ordinary parlance. It is not a term of art but one that signifies its meaning according to common notions. The Apex Court also in paragraph No.15, comes to the conclusion that hoardings containing the advertisements were fronting the public street and were clearly exposed to public view and the members of the public passing through the street, they are not covered by the exemption contemplated by the proviso and are, therefore, exigible to tax. Having perused the principles laid down in the judgment, it is very clear that the word 'fronting' was discussed even if it is a property which belongs to the railway.

18. This Court also would like to rely upon the judgment of the Apex Court in **NOVVA ADS vs. SECRETARY, DEPARTMENT OF MUNICIPAL ADMINISTRATION AND WATER SUPPLY AND ANOTHER** reported in **(2008) 8 SCC 42**. In this judgment also, the Apex Court discussed with regard to even Article 19(1)(a) of the Constitution of India. In this judgment, the Apex Court taken note that statutory rules

are exhaustive of the restrictions and restrictions do not apply to hoardings on a private land. Rules are discriminatory in applying the same yardstick to public roads and private properties as the same treats unequals as equals which is discussed in paragraph No.16. This Court also would like to extract paragraph Nos.28, 29 and 30 which reads as hereunder:

"28. *Section 326-A defines "hoardings" to mean "any screen or board at any place whether public or private used or intended to be used for exhibiting advertisements...." Sections 326-B to 326-J are provisions relating to licensing of hoardings. The Act requires licences of hoardings; and it requires licences of hoardings in both public and private places.*

29. *So far as public places are concerned, the State has a full right to regulate them, as they vest in the State as trustee for the public. The State can impose such limitations on the user of public places as may be necessary to protect the public generally. (See Saghir Ahmad v. State of U.P. [AIR 1954 SC 728 : (1955) 1 SCR 707])*

30. *Hoardings erected on private places also require to be licensed and regulated as they generally abut on and are visible on public roads*

and public places. Hoardings erected on a private building may obstruct public roads when put up on private buildings; they may be dangerous to the building and to the public; they may be hazardous and dangerous to the smooth flow of traffic by distracting traffic, and their content may be obscene or objectionable. It is, therefore, not correct that hoardings on private places do not require to be regulated by licensing provisions”.

19. Having considered the principles laid down in the judgment referred supra, it is very clear that Section 326-A defines hoardings to mean “any screen or board at any place whether public or private used or intended to be used for exhibiting advertisements. The Act requires licences of hoardings; and it requires licences of hoardings in both public and private places. Hoardings erected on private places also require to be licensed and regulated as they generally abut on and are visible on public roads and public places. Hoardings erected on a private building may obstruct public roads when put up on private buildings; they may be dangerous to the building and to the public; they may be hazardous and dangerous to the smooth flow of traffic by distracting traffic, and their content may be obscene or objectionable. It is, therefore, not correct that hoardings on private places do not

require to be regulated by licensing provisions. The Apex Court also discussed the same in paragraph No.33 of the judgment. Hence, it is very clear that whether it is private or public is immaterial.

20. This Court also would like to rely upon judgment of the Apex Court in **P. NARAYANA BHAT vs. STATE OF T.N. AND OTHERS** reported in **(2001) 4 SCC 554**, wherein the Apex Court held that the appellants being owners of hoardings and not advertisers, held, cannot claim that they had right to advertisement by hoarding under Article 19(1)(a) and also held that power given to Commissioner to remove any hoarding and the same not violates Article 14. It is also held that authorities not duty-bound to remove all the hoardings which are visible to traffic. However, held that the authorities concerned are empowered either to refuse to grant license/renewal or to remove the existing hoardings only if the same is hazardous and is a disturbance to safe traffic movement which, in turn, should adversely affect free and safe flow of traffic. Unless these impediments are present in the hoardings, merely because the said hoardings are visible to the traffic, cannot be a ground for either refusing the grant/renewal of license. In this judgment also, the Apex Court in detail discussed Section 326-J

of City Municipal Corporation Act, 1998 is neither ultra vires Article 14 nor Article 19(1)(a) of the Constitution in paragraph No.7 and so also in paragraph Nos.8, 9 and 10. But, it is very clear that must obtain the license and licensing authority must exercise the powers either to grant permission or reject. But, in the case on hand, no such permission was taken and even the petitioner has not applied for the same, but erected the said hoarding in their own land.

21. Having considered the principles laid down in the the judgments of the Apex Court referred supra, particularly in **Novaa Ads's** case, it is very clear that hoarding is erected on private places also, required to be licensed and regulated, as they generally abut on and are visible on public roads and public places. Hoardings erected on a private building may obstruct public roads when put up on private buildings, they may be dangerous to the building and to the public view. Hence, it is very clear that hoardings on private places can be regulated by a licensing provision. But, the Apex Court also has held that there cannot be complete prohibition on outdoor advertisement on private properties, but licensing authority has to take a decision.

22. Having considered the principles laid down in the judgments referred supra, the question involved in the case is very clear that the petitioners has already put up the Hoarding on a private property of the petitioner and the same is not in dispute, but no permission was taken and the principles laid down in the judgments is very clear that the authority can regulate the same. When such being the case, the contention of petitioner that very initiation of criminal proceedings against the petitioner, that too, when interim order has been granted by this Court cannot be accepted and the same is in respect of the demand notice is concerned, but the initiation of criminal proceedings is after the opportunity is given to the petitioner to remove the same and the same has not been removed. Hence, invoked Section 3 of KOPD Act and therefore, I do not find any error on the part of the complainant in invoking Section 3 of the KOPD Act.

23. Learned counsel appearing for the petitioner also relies upon Section 6 of KOPD Act. Having read Section 6 of KOPD Act, it is very clear that the company ought to have been made as a party. Having perused the complaint available on record, it is very clear that violation is by the owner of the premises i.e., M/s. Le Meridian, Bangalore and property belongs

to M/s. Le Meridian is also not in dispute. But, allegation is that they have not taken any permission. Even, a request was made to remove the same within a time period and complaint is also very specific that publication was made Kannada and English Newspapers on 13.08.2018 and 15.08.2018 and also fixed the date to remove the same on or before 30.08.2018 and when they did not do so, a complaint was given on 01.10.2018 and the same is also against the owner of M/s. Le Meridian, Bangalore.

24. It has to be noted that in Crl.P.7959/2018, the petitioner has not disputed the fact that he is a Vice President. In the petition itself, he has stated that company is registered under the Companies Act and its owner is M/s. Mac Charles (I) Ltd. and he claimed himself as Vice President (Finance) and Company Secretary and in the capacity of Vice President (Finance) and Company Secretary, first petition was filed. But, in the second petition, afterthought, when the Court did not grant any relief of interim stay, in the second petition i.e., Crl.P.No.2208/2019, wherein he claims in his personal capacity that he is a Finance (VP) and Company Secretary. But, as described by himself in the petition that wrongly described as Assistant Manager Finance. But, in the second petition, he

claims that he is an employee and he cannot be prosecuted. But, the very petitioner itself is not clear and in one breath, he claims that he is a Finance (Vice President) and Company Secretary and case is registered against M.S. Reddy as accused in the charge sheet shown him as accused. But, it is mentioned as Assistant Manager, Finance, M/s. Le Meridian Hotel, Golf Road. Though, it is mentioned as Assistant Manager, but he claims that he is a Vice President and Company Secretary and whether he is a owner or he is an employee, at this stage, the same cannot be considered and complaint is filed against M/s. Lee Meridian Hotel and he has been arraigned as an accused and he himself claims that he is the Vice President and Company Secretary. When such being the case, the very contention that Section 6 of KOPD Act could be invoked as the company has not been arraigned as accused and having perused charge sheet also, the case is registered in his individual capacity by showing his name and not registered the case against the company and while investigating the case also, Investigating Officer failed to make the company as accused. Hence, it is a fit case to exercise the power under Section 482 of Cr.P.C. or otherwise, it amounts to abuse of process, in view of Section 6 of KOPD Act and the said Section contemplates

that company ought to have been arraigned as accused and it requires interference.

25. In view of the discussion made above, I pass the following:

ORDER

- (i) Both the criminal petitions are allowed.
- (ii) The proceedings initiated against the petitioners in C.C.No.32777/2018 on the file of 8th Additional Chief Metropolitan Magistrate, Bangalore including charge sheet dated 13.12.2018, complaint and the FIR dated 01.10.2018 registered by the High Grounds Police Station, in Crime No.138/2018 for the offence under Section 3 of KOPD Act is hereby quashed, in view of Section 6 of KOPD Act.

Sd/-
(H.P.SANDESH)
JUDGE

ST