

BLOGS

Voters Can File Private Complaints for False Election Affidavits: Supreme Court Settles Section 125A RP Act vs Section 195 CrPC

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In a landmark judgment clarifying electoral accountability, the Supreme Court of India established that **Voters Can File Private Complaints for False Election Affidavits: Supreme Court Settles Section 125A RP Act vs Section 195 CrPC**. The ruling affirms that the general rule of setting criminal law into motion applies to election discrepancies, ensuring that common citizens do not have their hands tied by bureaucratic bottlenecks.

Case: [Rajkumar Madki v. Dr. Shailendra Beldale, 2026 INSC 1138 \(reportable\)](#)

The Legal Question

In a recent ruling, the apex court dealt with a topic that is of public significance, which it had not previously ruled on.

The issue involved [Section 125A of the Representation of the People Act of 1951](#) and **whether it was part of the [Section 195\(1\) of CrPC](#)**, like whether an *individual can file a complaint under [Section 200 of CrPC](#) against a victorious candidate or did only an official have the right to file such a complaint.*

Why It Matters

As per **Section 195(1)(a)**, **no court can take action against any person in relation to offences under [Sections 172 to 188 of IPC](#) unless a report is made by an officer concerned or a higher-ranking officer.**

The Karnataka High Court interpreted Section 125A as part of that restriction, meaning only the Election Commission could file complaints, while a voter had to pursue election petitions.

Background: How Section 125A Came to Exist

The concept of disclosure was first introduced due to the judgment delivered in the case of **Union of India v. Association for Democratic Reforms** which has recognized the right of people to find out about the educational and financial status of a candidate along with his criminal record.

The legislation for the purpose has been taken out by the Parliament, by coming up with Act 72 of 2002, by which two sections 33A and 125A were introduced from 24 August 2002.

According to **Section 125A** the candidate can be charged if he did not give the details under section 33A(1) deliberately to become elected in the elections, or if he gave wrong information knowingly, or if he was hiding the information in nomination papers or affidavit.

In such cases as punishment, he can receive 6 months of jail, or he can be fined, or he can face both punishments, and the law is applicable regardless of any other provisions existing on this issue already. The **affidavit used for the purpose must be made in the format known as Form 26 according to Rule 4A of the Conduct of Election Rules, 1961.**

Facts

Dr. Shailendra Beldale was elected to the Karnataka Legislative Assembly from Bidar in 2023. Rajkumar Madki filed a complaint on 21 August 2023 before the 42nd Additional Chief Metropolitan Magistrate, Bengaluru, *alleging a false declaration of his residential address in the nomination affidavit.*

The Karnataka High Court quashed the complaint on 7 March 2025 on the Section 195 ground. The Supreme Court granted special leave on 20 July 2026.

Contentions

Appellant (voter): Section 125A is not mentioned in Section 195(1), so the bar does not apply, and a voter-complainant is competent.

Respondent (candidate): **Section 125A should pass the Section 195(1) test because the affidavit goes to the Returning Officer, a public servant, and the offence overlaps with Section 177 IPC (false information to a public servant).**

Private complaints would invite frivolous harassment of winners. The respondent also relied on the Election Commission's press note of 16 June 2020, which *says the Commission will take up serious complaints and refer them to investigating authorities*, and on the Karnataka High Court decision in ***Raghunath Deshpande v. State of Karnataka***.

The Court's Reasoning

First, the text. Section 195(1)(a) lists Sections 172 to 188 IPC, and Section 125A is not there. The Court refused to read a prohibition into Section 195 that Parliament did not write.

Second, legislative omission is deliberate. Section 125A was inserted in 2002, and Section 195 was amended in April 2006. The legislature is presumed to have known about the existing Section 125A and chose not to add it. **If Parliament wanted only public servants to complain, it could have amended Section 195.**

Third, the non obstante clause and the silence of other laws. No enactment says that **only a public servant can complain about a Section 125A offence, and Section 125A itself applies "notwithstanding anything contained in any other law"**. Together these support the private complaint route.

Fourth, the Election Commission's guidance does not bind courts. The Court said **interpretation of statutes is primarily the task of the courts**, so it did not need to rely on the press note.

Outcome

The legal question was answered in the voter's favour, but the complaint failed on the facts. The Court found that the address allegation had been prima facie rebutted by documents, that conviction was remote, and that continuing the case would only waste judicial time. It upheld the High Court's quashing for different reasons. It added that magistrates have the power to deal with frivolous complaints that are meant to harass elected candidates.

Ratio

A private complaint alleging an offence under Section 125A of the Representation of the People Act *need not pass the rigours of Section 195 CrPC*. **Section 125A is outside the list in Section 195(1)(a), and the omission is deliberate.**