

KABI010021642026



**IN THE COURT OF THE II ADDL. DISTRICT & SESSIONS JUDGE,
AT BALLARI.**

PRESENT:

SRI.B.G.PRAMODA., B.A.L., LL.B.,
II ADDL.DISTRICT & SESSIONS JUDGE, BALLARI

DATED THIS 24th DAY OF JUNE 2026

Cr1.R.P.No:53/2026

PETITIONERS:

- 1)** Mustagatta Basava S/o Gangadhar, Aged: 38 years, Agriculturist,
- 2)** Smt.Hanumanthamma W/o Gangadhara, Aged: 55 years, Agriculturist,
- 3)** Umapathi S/o Gangadhara, Aged: 35 years, agriculturist,
- 4)** Shivappa S/o Gangadhara, Aged: 28 years, agriculturist,
- 5)** Smt.Jademma W/o Mustagatta Basava, Aged: 35 years, agriculturist,

All are residents of Sindhigeri village, Kurugodu Taluk, Ballari District.

(By Sri.H.Aswath Reddy, Advocate)

/Vs//

RESPONDENTS: 1) The State by Taluka Executive Magistrate, Ballari.

2) The State by Sub-Inspector of Police, Kurugodu Police Station, Kurugodu.

(By Learned Public Prosecutor)

ORDER

1. This revision petition is filed by the revision petitioners **U/Sec.438 of Bharatiya Nagarik Suraksha Sanhita, 2023** praying to set aside the order passed by the respondent No.1 in **MAG/PAR/No.05/2026-27 dated:06.05.2026.**

2. The petitioners have sought for setting aside the impugned order on the following grounds:

a. The proceedings initiated by the Learned Magistrate in MAG/M.C.No.05/2026-27 dated: 06.05.2026 is against law and probabilities of the case.

b. The Learned Taluka Executive Magistrate has not followed the mandatory provisions of law which are contemplated U/Sections 126 of BNSS, 2023.

c. The Learned Magistrate has passed the impugned order mechanically and without application of mind.

d. The Learned Magistrate has not conducted spot inspection and he has not verified the situation whether there was any breach of peace and public tranquility and he has not reported his personal satisfaction.

e. There is no material before the Learned Magistrate to show that, there is a apprehension of imminent breach of public tranquility.

f. Viewed from any angle the procedure in initiating the security proceedings against the petitioners is not maintainable either in law or on facts and as such the said order is liable to be set aside.

3. On these among other grounds, the petitioners have prayed to allow the petition.

4. After filing of the petition, it is numbered as 53/2026 and notice was issued to respondents. The learned P.P. has appeared on behalf of respondent No.1 and 2 submitted her oral objection. Records from respondent No.1 was secured. Then matter was posted for arguments.

5. Heard the arguments of learned counsel for the petitioners and learned P.P. Perused the grounds urged in the petition, impugned order and other materials on record.

6. Having done so the following points arise for my consideration:

1. *Whether the petitioners prove that, respondent No.1 is erred in passing the impugned order dated: 06.05.2026 in MAG/PAR.No.05/2026-27?*
2. *Whether the petitioners prove that, interference of this Court is required with the impugned order passed by respondent No.1?*
3. *Whether the petition filed by the petitioners is deserves to be allowed?*

4. What order ?

7. My findings to the above said points are as under :

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative.

Point No.3 : In the Affirmative,

Point No.4 : As per the final order for the following:

REASONS

8. **Point No.1 to 3**:- These three points are interrelated to each other and as such they are taken together for common discussion to avoid repetition of facts.

The petitioners have filed the present petition praying to set aside the order dated:06.05.2026 passed by respondent No.1 in MAG/PAR.No.05/2026-27. It is to be noted here that, the Sub-Inspector of Police of Kurugodu Police Station, Kurugodu, has submitted report before respondent No.1 by alleging that, he has received information from the informant that, there was quarrel between Adimane Tayappa and other and Mustagatte Basava and others since Basava and his men have made loose talks about one Bavikatte Devi. Case and counter case was registered against both the parties. The members of both groups are absconded. There is possibility of they coming to village by obtaining bail and they making galata with each other and there by causing disturbance public peace and causing loss to the public property and life.

9. On the basis of said report submitted by respondent No.2, the respondent No.1, the Learned Taluka Executive

Magistrate, Ballari has registered proceedings in MAG/PAR/No.05/2026-27 and issued summons dated: 06.05.2026 to the petitioners U/sec.132 of BNSS, 2023 calling them to show cause why they should not be asked to execute security bonds for Rs.1,00,000/- each with one surety to keep peace in the locality.

10. Since, the proceedings against the petitioners by the respondent No.1 is initiated U/Section 126 of BNSS., it is relevant to note the said provision herein:

Section 126 of BNSS: Security for keeping the peace in other cases.

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceeding under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is

within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act as aforesaid beyond such jurisdiction.

11. Plain reading of Section 126(1) of BNSS., makes abundantly clear that, it is absolutely necessary that Magistrate should consider the facts contended in the information received by them and form the opinion that, the facts gives rise to grounds which are sufficient in his opinion for proceedings U/Section 126 of BNSS. There must be formation of opinion by the Learned Executive Magistrate before proceeding in the matter. Upon receiving the information that, any person is likely to commit breach of peace, the Learned Magistrate is required to formulate his opinion that there is sufficient grounds for proceedings against that person only. Thereafter, the Magistrate has to issue notice to show cause why he should not be ordered to execute a bond for keeping the peace for such period, not exceeding one year, to maintain peace in the locality.

12. The information received must be clear and definite, closely associated with person against whom process is issued and should disclose tangible facts and details that could also convince the accused on what grounds he has been brought before the Court. Further, there must be satisfactory evidence that, the persons have done something or taken some steps that indicates an intention to breach the peace or they are likely to disturb the public tranquility.

13. In the present case, from the impugned order passed by the respondent No.1 it is evident that, respondent No.1 has not recorded any reasons for taking cognizance and he has not recorded the personal satisfaction or opinion in order to come to conclusion against the petitioners and for issuance of summons U/Sections 130 and 132 of BNSS. From the impugned order it is clear that, the Learned Magistrate has mainly based upon the report of respondent No.2 for forming the opinion. There are no satisfactory evidence to show that, the petitioners have done something and they have taken some steps to commit breach of public peace and they are likely to disturb the public tranquility. The impugned order does not reflect that, there was any application of mind by Learned Magistrate before passing the impugned order. It seems that, there is no detail inquiry by the Learned Magistrate which justify the formation of opinion expressed by him in the impugned order.

14. In this regard, it is worthwhile to refer to the decision rendered by the Hon'ble High Court of Karnataka in the case of **Sri. Rustom Keraula Vs. State of Karnataka** in Criminal Petition No. 6520/2014, dated: 27th October, 2014 reported in **ILR 2015 KAR 300**. In the said judgment the Hon'ble High Court of Karnataka has referred to several decisions of the Hon'ble Supreme Court and observed that, upon receipt of information, the Magistrate has to formulate opinion of his own and express such opinion the order made otherwise is liable to be quashed.

15. In view of the above ratio laid down by superior courts, it is amply clear that, the Taluka Executive Magistrate before taking cognizance, has to apply his mind judiciously. As per the report of respondent No.2, there was quarrel between Adimane Tayappa and other and Mustagatte Basava and others since Basava and his men have made loose talks about one Bavikatte Devi. Case and counter case was registered against both the parties. The members of both groups are absconded. There is possibility of they coming to village by obtaining bail and they making galata with each other and there by causing disturbance public peace and causing loss to the public property and life. But, in the present case the learned Taluk Executive Magistrate has not properly and judiciously applied his mind to the report of respondent No.2 and he has not independently made inquiry so has to satisfy himself that, the allegations made in the report of respondent No.2 against the petitioners are true and there is possibility that, the petitioners are likely to commit breach of public peace, disturb public tranquility and is likely to cause damage to the public property.

16. In absence of any such personal independent satisfaction by the learned Magistrate, his impugned order issuing summons to the petitioners cannot be considered as legal and it cannot be considered as in-accordance with provisions of Section 126 of BNSS. Further, in the present case respondent No.2 has registered case against the petitioners and others by alleging that, there was quarrel between Adimane Tayappa and other and Mustagatte Basava and others since Basava and his men have made loose talks about one Bavikatte

Devi. Case and counter case was registered against both the parties. The members of both groups are absconded. There is possibility of they coming to village by obtaining bail and they making galata with each other and there by causing disturbance public peace and causing loss to the public property and life. There are no prima-facie materials on record to show that, the petitioners will quarrel with other group and there is every chance of petitioners causing disturbance to the public peace in their area and petitioners causing trouble to the public and causing loss to public property. Under these facts and circumstances of the case, I am of the opinion that, impugned order passed by the learned Magistrate is deserves to be set aside. The petitioners have proved that, respondent No.1 is erred in passing the impugned order against them as such petition filed by the petitioners is deserves to be allowed.

Accordingly, I answer Point No.1 to 3 in the affirmative.

17. Point No.3:- In view of the above discussion on the Point No.1 and 2, I proceed to pass the following:

ORDER

The revision petition filed by the revision petitioners U/Sec.438 of Bharatiya Nagarika Suraksha Sanhitha, 2023 is hereby allowed.

The impugned order dated:06.05.2026 passed by respondent No.1 in MAG/PAR/No.05/2026-27 is hereby set aside.

*Send back the original records received
from the office of respondent No.1 with the copy
of order.*

[Dictated to the Stenographer Gr-III directly on computer,
matter corrected and then pronounced by me on this the 24th
day of June, 2026].

[B.G.PRAMODA]

II Addl. District & Sessions Judge,
Ballari.