



**IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE, CHIKKABALLAPUR.**

PRESENT

SHRI. SIDDANNA B. HANDRAL
B.Sc.,LL.B (Spl).

III Addl. Dist. & Sessions Judge,
Chikkaballapur.

DATED THIS THE 31st DAY OF JULY 2026

CRIMINAL REVISION PETITION No.16/2025

**REVISION
PETITIONERS**

1. Sri. Abrahar, S/o.Latheef,
Aged about 22 years.
2. Sri.Babli, S/o. Latheef,
Aged about 20 years.
3. Sri.Latheef,
S/o. Late T.Mudinsab,
Aged about 50 years.
4. Sri.Mujeeb,
S/o. Late Hussain Sab,
Aged about 45 years.
5. Sri. Illayaz, S/o.Ismail,
Aged about 35 years.
6. Sri.Kushi Babajan, S/o. Basha,
Aged about 32 years.
7. Sri.Intiyaz, S/o.Ismail,
Aged about 37 years.
8. Sri.Nawaz, S/o.Ghouse,
Aged about 42 years.
9. Sri.Abhas, S/o.Babajan,
Aged about 36 years.

10. Sri.Rizwan, S/o.Abdul Khadar,
Aged about 36 years.
11. Sri.Mutton Nayub, S/o.Ismail,
Aged about 36 years.
12. Sri.Mubhasha,
S/o.Ghousepeer,
Aged about 55 years.

**All are R/at Chelur Town & Taluk,
Chikkaballapura District.**

(By Shri.S.E.G., Adv.,)

Vs.

RESPONDENTS

1. The Taluk Executive Magistrate,
Chelur Taluk, Chelur.
 2. The Sub-Inspector,
Chelur Taluk, Chelur.
- (By III-Addl.Public Prosecutor,
Chikkaballapur.)

ORDER

The revision petitioners have filed this revision petition under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 against the respondents being aggrieved by the order passed by the respondent No.1 The Taluka Executive Magistrate against the petitioner under PAR 0004/2025 dated 02.04.2025 of BNSS and proceedings under MAG -Cr.No.2/2025-2026.

2. The facts of the case are that, on 1.4.2025 at about 5.30 p.m. when Syed Mohammad while performing the burial rites of his uncle at the cremation ground, objections were raised against him, claiming that the ritual should not be performed. At that time the son of petitioner no.3 herein/ respondent no.3 in party no.1 assaulted him by holding his head, petitioner no.4

herein / respondent no.4 in party no.1 torn his clothes and assaulted on his neck, petitioner no.5 herein came back and kicked with his legs and on his chest, petitioner no.3 herein shouted to kill him and all petitioners herein have beaten him. petitioner no.8 herein came from behind, dragged his head and pressed his neck, with an attempt to kill him. At that time he became unconscious all the petitioners herein rushed into the masjid assaulted him. The sons of petitioner no.3 herein by showing the knife and threatened the public and assaulted them. Thereafter the committee members of the masjid pacified the quarrel and based on the complaint lodged by the Rahamathulla, the Cheluru police have registered the case against the petitioners.

3. Thereafter, on 2.4.2025 complainant by name M.S.Abdul Latheef has lodged the complaint against the respondents in party no.2 alleging that, they have picked up quarrel and assaulted them and also threatened to their life and requested to provide security for them, based on that on the said complaint, NCR has been registered and thereafter submitted PAR report to the respondent no.1. Thereafter in turn the respondent no.1 i.e. Taluka Executive Magistrate has registered the case against both parties and also to prevent the piece and public tranquility has issued the notice against the present petitioners who are respondent no. 1 to 12 in party no.1 under PAR No.4/2025 U/Sec.126(1) of BNSS.

4. Being aggrieved by the same, the present revision petition has filed by the petitioners against the proceedings initiated by the 2nd respondent before the 1st respondent in M.A.G.C.R.2/2025-2026, on the following grounds;

1. The respondent has not issued individual notices separately in fact notice has been issued to all of the parties in the single notice.

2. The respondent failed to note that when no dispute civil or criminal are pending or disposed before any court against the petitioners, for initiating the criminal proceedings before the Executive Magistrate does not arise and not at all necessary.

3. The respondent have issued any individual notices and the notices are all of printed format, blank spaces have been left out and filed, no information is furnished that what are all material the 1st respondent has gone through to satisfy himself, issuing of notice is not proper and it does not even contain seal.

4. The petitioners are the residents of Chelur town and they have not involved in any acts against to the law or incidents by means of non-violence methods, there are no rival parties as claimed by the respondents.

5. The petitioners have never intended to against to the law as claimed by the respondent at any point of time. As such the proceedings initiated before the 1st respondent is required to be quashed.

6. The 1st respondent has no jurisdiction or authority to direct the petitioners to execute the bond without any basis only at the report of the 2nd respondent and the same is arbitrary, injustice and not sustainable either under law or on facts.

7. The notice does not disclose the allegations made against the petitioners and unless particulars are furnished, they are not in a position to submit their defense/explanation.

8. The notice does not disclose the ground upon which the 1st respondent found it necessary to direct the petitioners to execute the bond, the term for which it should be in force, character, number of sureties, class of sureties if any.

9. Therefore, on these among other grounds, it is prayed to call for the entire records in MAG 02/2025-2026 from the office of 1st respondent and quash the same.

5. After registration of the petition, notice to learned P.P. has been issued, who has appeared before the court on behalf of the Respondents. Thereafter, secured records from Respondent No.1.

6. Heard the arguments of both the learned counsel for the petitioners and the learned Public Prosecutor and perused the materials.

7. On the basis of contents of the petition and documents produced by the petitioner and having heard the arguments by learned counsel for petitioner and Public Prosecutor the following points that are arise for consideration :

1. ***Whether the petitioners have made out the grounds to allow the petition as prayed ?"***

2. ***What order?***

8. The above points are answered as under:

POINT No.1: In Affirmative

**POINT No.2: As per the final order
for the following:**

REASONS

9. **POINT No.1:** If the show cause notice is perused, the Cheluru Police have made the preventive report before the Taluka Executive Magistrate, Cheluru stating that, a case has been registered in Cheluru P.S. Cr.No.4/2025 dated 2.4.2025 U/s.126(1) of BNSS against the present petitioners and respondent no.1 to 3 in party no.2 and registered a case in MAG/ Cr.No.2/2025-2026 and issued show cause notice dated 8.5.2025 to the present petitioners and respondents in party no.2 to appear before his office and execute the bond.

10. Petitioners have challenged the said order under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 by contending that they are innocent and have not committed any offence as alleged by the State. The petitioner has challenged the show cause notice issued by the respondent on the ground of procedural aspects and non consideration of the preliminary orders by the respondent and also defects found while issuing the show cause notice by the respondent. In this regard, it is relevant here to refer the decision of Hon'ble High Court of Karnataka reported in **2015(1) KCCR-794** wherein it was held that Sec.107 of Cr.P.C clearly indicates that T.E.M. while passing an order after receiving information, he must satisfy himself that any person is likely to commit breach of 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 the opinion that there are sufficient grounds for proceeding, then only he may pass an order u/Sec.111 of Cr.P.C. It is also held that the Taluka Executive Magistrate has duty bound to pass an order in writing under Section 111 of Cr.P.C specifically stating forth the substance of received, the amount of bond to be executed, the

term for which it is to be in force, the number, character and class of sureties required to be furnished by the petitioners. In this particular case, it appears the computerized format does not even contain any factual matrix of the case. The Taluka Executive Magistrate has to specifically mention as to how he has received such information and how he has satisfied that there was an apprehension for breach of peace in a particular case. In addition to that our Hon'ble High Court in the case of **K.A.Ganganna Vs. State of Karnataka reported in 2002(2) KCCR 1023** has held that **“before initiating action 107 of Cr.P.C, the Executive Magistrate has to apply his mind and cannot simply act on the report of the Police. In this case the original records discloses that there is absolutely no application of mind on the part of Executive Magistrate and no independent enquiry is held by him. The respondent has not satisfied himself as to whether the proceedings are required to be initiated u/Sec.107 of Cr.P.C or not, before issuing the impugned notice.”**

11. In another decision of Hon'ble Supreme Court of India reported in **(1970)3 SCC 746** in the case of **Madhu Limaye Vs. Sub-Divisional Magistrate Monghyr**, wherein it has been held that **“36. The procedure begins with section 112. It requires that the magistrate acting under section 107 shall make an order in writing, setting forth the substance of information received, the amount of bond, the term for which it is to be in force and the number, character and class of surety (if any) required. Since the person to be proceeded against has to show-cause, it is but natural that he must know the grounds for apprehending a breach of the peace or disturbance of the public tranquility at his**

hands. Although section speaks of the “substance of information”, it does not mean that the order should not be full. It may not repeat the information bodily but it must give proper notice of who was moved the Magistrate to take the action. This order is the foundation of the jurisdiction and the word “substance” means the essence of the most important part of the information. In another decision of Hon'ble High Court of Karnataka reported in **1988 KAR 1970** in the case of **Mahadevaswamy Vs. State of Karnataka** has held that **“13. It is only when Magistrate acting under Section 107 of the Code deems it necessary to require any person to show cause as stated above, he has to make an order in writing setting forth the substance of information received, the amount of bond to be executed, the term for which it is to be in force and the class of surety if any required”.**

12. By applying the above principles of law laid down by the Hon'ble High Court of Karnataka to the present facts of the case and the perusal of the show cause notice issued in the present case it appears that the show cause notice itself suffers from infirmity, as that was not discloses that any other antecedents which were involved by the petitioners. Further, the show cause notice will not disclose the facts that bond shall be required to be executed by the petitioners and character and class of the surety and there is no independent assessment conducted by the Respondent No.1 so as to come to the conclusions that, the alleged act of the petitioners amounting to cause disturbance to the public peace and tranquility as held by the Hon'ble High Court of Karnataka. On these grounds this court

is of the considered opinion that the petitioners have made out grounds that the Taluka Executive Magistrate, Cheluru has not applied his mind before issuing show cause notice on the information furnished by the Cheluru Police and show cause notice is not in compliance with provisions laid down U/s 126(1) of Cr.P.C. Hence petitioners have made out grounds to warrants an interference of this court. Accordingly, for the above said reasons this point is answered in **Affirmative.**

13. **Point No.2:** In view of the finding given and answer to the above point it is just and proper to proceed to pass the following:

ORDER

Petition filed by the petitioners under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 is hereby allowed.

It is ordered that the impugned order passed by the learned Tahasildar, Cheluru, in No. MAG No.02/2025-2026 and PAR. 04/2025 dated 08.05.2025 is hereby set aside against the petitioners.

Office to return the TCR to the trial court along with copy of this order.

(Dictated to the Stenographer directly on the computer, print out corrected, signed and then pronounced by me in open court on this the 31st day of July 2026.)

(Siddanna B. Handral)
III-Additional District & Sessions Judge
Chikkaballapur.