

## **ORDERS**

The complainant has filed the present complaint seeking for an order referring the matter for investigation by the PSI of Kalasa PS with respect to the offences punishable under Section 126(2), 127(2), 135 115(2), 351(2), (3), 352, 49 r/w 3(5) of BNS, against the accused persons.

**2.** It is the case of complainant that he has taken a premises for rent on the said premises is owned by Jumma Musjid Kalasa. He is also paying rent promptly. On 19.08.2024 at 1.00 PM, the accused No.1 to 8 with common intention have formed into unlawful assembly and trespassed into the premises of the complainant, threatened him stating that he is due to pay rent and tried to lock the premises illegally. The said accused have also scolded the complainant in filthy language and confined him. Such offences are committed by the accused No.1 to 8 on an instigation of the accused No.9 who is the treasurer of Jumma Masjid. On the very same day the complainant has lodged the complaint with Kalasa Police but the said police have registered the same in NC No.152/2024 and issued an endorsement on the ground that the offences are non cognizable in nature and also in Civil litigation. On 24.08.2024, the complainant has also approached the Superintendent of Police Chikkamagalur, but no action has been taken against the accused persons. On these averments the complainant seeks for necessary actions the accused.

**3.** Having heard the learned counsel for complainant, this Court has carefully perused the entire materials on record as well as the report of PSI, Kalasa PS wherein submitted that since the first information disclosed the non-cognizable offence, NCR has been registered.

**4.** It is relevant here to refer the decision of Hon'ble Apex Court in the case of **Srinivas Gundluri & Ors vs M/S. Sepco Electric Power Constructions** reported in **(2010) 8 SCC 206** wherein it has been held as under:

*"To make it clear and in respect of doubt raised by Mr. Singhvi to proceed under Section 156 (3) of the Code, what is required is a bare reading of the complaint and if it discloses a cognizable offence, then the Magistrate instead of applying his mind to the complaint for deciding whether or not there is sufficient ground for proceeding, may direct the police for investigation."*

**5.** Herein the present case, though the complainant has alleged that on an instigation of accused No.9, the accused No.1 to 8 with common intention formed into unlawful assembly, trespassed into the premises of complainant, tried to lock the premises, scolded him in filthy language and wrongfully restrained him. But the first information dated 19.08.2024, would disclose that the complainant has made an allegation of threatening for the reason of arrears of rent and also that his shop will be locked. Therefore, the first information does not disclose the cognizable offence and the alleged threatening is a non-cognizable offence. Thus, permitting the police to investigate into the matter pursuant to NC No.152/2024 would suffice. The above complaint is accompanied with an affidavit. Under the circumstances, the following:

**ORDER**

**The PSI of Kalasa PS is permitted to investigate into the matter pursuant to NC No. 152/2024, in accordance with law.**

**Issue intimation of this order to the SHO, Kalasa PS.**

**Await final report 07.12.2024.**

**Sd/-**

**(Vishwanath.A)**

**C/c Addl. Civil Judge & JMFC  
Mudigere.**