



**IN THE COURT OF THE I ADDL. DISTRICT AND
SESSIONS JUDGE, KODAGU AT MADIKERI.**

-:PRESENT:-

SMT. MAMTAZ, M.A.LL.B,PGDCA

**I Addl.District & Sessions Judge,
Kodagu-Madikeri.**

Dated this the 7th day of July, 2026

CRIMINAL REVISION PETITION No.19/2026

PETITIONER

:- 1. Kaniyara Nanaiah

Aged 79 years,
S/o Late Nanjunda.

2. B.U. Poovanna,

Aged 74 years,
S/o Late B.N.Uthaiah

3. Bollanamanda Papu

Ponnanna,
S/o Ganapathy,
Aged 52 years,

4. Kaliyanda Sampan Aiyappa,

S/o K.D. Appanna,
Aged 48 years,

5. B.P. Chinnappa,

S/o B.U. Poovanna
Aged 48 years

6. B.P. Barath

S/o B.U. Poovanna
Aged 40 years

7. Pongera Ullas

S/o late Nanaiah,
Aged 58 years,

All are residents of Kunjila
village, Kakkabe Post,
Napoklu Hobli,
Madikeri Taluk,
Kodagu District.

**(By Sri. A.G.Giri,
Advocate)**

Vs.

RESPONDENT**:- 1. The Sub-Inspector of Police**

Napoklu Police Station,
Madikeri Taluk,
Kodagu District.

**2. The Taluk Executive
Magistrate,**

Madikeri Taluk,
Kodagu District.

**(By learned Public
Prosecutor, Madikeri)**

:- ORDERS :-

This is a Criminal Revision Petition filed by the
Petitioner under Section 438 and 440 of BNSS 2023
seeking to quash/ set aside the order passed by the
Tahsildar of Madikeri Kodagu in proceedings
No.MAG/: 277/2025-26 dated 26.03.2026 initiated

by the 2nd Respondent/Taluk Executive Magistrate pursuant the Notice issued under Section 126 of BNSS.

2. The brief facts of the case are as under:

On the basis of false complaint filed by the 1st Respondent against the petitioners under Section 126 of BNSS, the 2nd Respondent has issued notice to the petitioners calling upon them to execute the bond. Aggrieved by this, the petitioners are preferring this revision petition.

3. The learned counsel for the Petitioners submitted that, the order of the 2nd Respondent No.MAG/: 277/2025-26 is not maintainable in law, facts and it is untenable against the principles of law and justice. The 2nd Respondent without following the mandatory requirements of Sec. 135 of BNSS has passed a wrong order and has wrongly registered the case against the petitioners and others. It is further averred that the 2nd Respondent did not issue show causer notice before initiating the proceedings and did not give opportunity tot he petitioners to explain. The 2nd Respondent has acted only on basis of the report of

the 1st Respondent which is illegal. To initiate the proceedings the 2nd Respondent has not passed any speaking order and without speaking order the order of 2nd Respondent is untenable in law and is liable to be set aside. Hence, sought for allowing the petition.

4. Per contra, the learned Public Prosecutor supports the action of the Respondents and submits that the Petitioners can submit their explanation to the 2nd Respondent as per the said Notice and the same would be considered. Hence sought for dismissal of the petition.

5. The original records pertaining to the above proceedings are placed before this Court by the 2nd Respondent.

6. I have heard the learned counsel for the revision Petitioners and the learned Public Prosecutor and also perused the original records of the 2nd Respondent/Executive Magistrate.

7. The following points arise for consideration:

:- POINTS :-

1) Whether the impugned Notice issued by 2nd Respondent/Taluk Executive Magistrate to the petitioners for enquiry under Section 126 of B.N.S.S, 2023, is liable to be set aside?

2) What order?

8. For the reasons stated hereinafter, my findings on the above points are as follows:-

Point No.1 : In the **Affirmative**

Point No.3 : As per final order
for the following:

:-REASONS:-

9. **POINT NO.1:-** The impugned notice discloses that, pursuant to PAR No.7/2026 dated 24.03.2026 registered by Napoklu police for offence p/u/s. 126 of BNSS, the proceedings against the revision petitioners came to be registered. In the impugned notice, it is mentioned that Napoklu police have submitted an FIR to the 2nd respondent and have made a request to them to obtain bonds from the revision petitioners, undertaking to

keep good conduct for one year. It is also mentioned in the notice that there was likelihood of the revision petitioners causing public peace and disturbance.

10. It is submitted that the action of the Law Enforcement Agency in registering Preventive Action Report under Section 126 of the BNS against the petitioner is completely bad in law and constitutes an abuse of the judicial process. The Investigating Agency has forwarded a report to the learned Taluk Executive Magistrate Madikeri seeking the execution of the bond for maintaining peace and good behaviour.

11. It is a settled principle of criminal jurisprudence that preventive sections cannot be used as a shortcut to bypass a regular criminal investigation. If the allegations made by the complainant disclosed the commission of a cognizable offence, the investigating officer was under a statutory mandate to register a regular First Information Report under the BNS. Failing to register an FIR while simultaneously branding the petitioner a habitual offender to justify a preventive bond before the Executive

Magistrate is an unsustainable approach. The mere existence of the prior cases against the petitioner cannot serve as a blanket license to initiate preventive proceedings in the absence of an immediate fresh threat to public tranquility. Consequently, the preventive action report sent to the Taluk Executive Magistrate suffers from a fundamental statutory infraction and is liable to be quashed. Therefore, when the very registration of the PAR by the police is bad in law, the 2nd respondent could not have acted on that PAR and registered a case under Section 126 of BNSS., against the revision petitioners.

12. It is to be further noticed that it has been held by our Hon'ble High Court in ***K.A.Ganganna Vs. State of Karnataka reported in 2002 (2) KCCR 1023*** that before initiating action under Section 126 BNSS., the Executive Magistrate has to apply his mind and cannot simply act on the report of the police. In this case, the original records pertaining to this case discloses that, there is absolutely no application of mind on the part of the Executive Magistrate and no independent enquiry is held by him. The 2nd Respondent has also not satisfied

himself as to whether proceedings are required to be initiated under Section 126 of BNSS, or not, before issuing the impugned notice.

13. Further, it is to be noticed that a preliminary order has to be passed before proceeding under Section 126 of BNSS., as contemplated under Section 105 of BNSS. The notice as well as the original records do not disclose that any preliminary order has been passed in this case and therefore, initiation of the proceedings itself is illegal.

14. Our Hon'ble High Court in its recent decision in the case of ***Sri Rustum Karawala -Vs- State of Karnataka, by Varthur Police Station reported in ILR 2015 Karnataka Pg. 300*** has held that, proceedings under Section 107 and 111 of Cr.P.C., are being initiated in a mechanical manner, without any application of mind and cyclostyled notices are been issued, which are wholly illegal and quashed the Notice issued by the Executive Magistrate. In my opinion, the principles laid down in the said case, squarely applies to the facts of the present

case. Therefore, I am of the opinion that not only the notice in question is liable to be set aside, but the entire proceedings are also liable to be set aside. Accordingly, Point No. 1 is answered in the **“Affirmative”**.

15. **Point No.2:** In view of the reasons assigned above and findings arrived at on point No.1, I proceed to pass the following:

∴ ORDER ∴

The Criminal Revision Petition filed by the **Petitioners** under **Section 438 & 440 of B.N.S.S, 2023** is hereby **allowed**.

The **impugned Notice** issued by the 2nd Respondent/Taluk Executive Magistrate and the **entire proceedings** initiated against the Petitioner in **No. MAG:277/2025-26 dated 26.03.2026** are hereby set aside.

Send back the LCR with copy of this Order to the 2nd Respondent.

(Dictated to the Stenographer Grade-III, directly on the Computer, corrected, signed and then pronounced by me in the open Court, dated this the **7th** day of **July 2026**)

sd/xxx
(MAMTAZ)

I Addl. District and Sessions Judge,
Kodagu-Madikeri.