

KAMD010022272026



**IN THE COURT OF IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MANDYA, AT: MANDYA**

Dated: This the 27th day of June 2026

Present:

SRI MADHVESH DABER

B.Com., LL.B.(Spl)

IV Addl. District & Sessions Judge
Mandya.

Criminal Revision Petition No.34/2026

Petitioners:

1. Appaji, S/o Boraiah,
Age: 50 years, Occ: Coolie.
2. Manasa H.N., D/o Nagaraju,
Age: 20 years, Occ: Nil.
3. Smmt. Mamatha B.R. W/o Chhandra,
Age: 45 years, Occ: Housewife
4. Smt. Bhagyamma, W/o Nagaraju,
Age: 48 years, Occ: Garmentn work.
5. Nagaraju S/o Puttamadaiah,
Age: 24 years, Occ: Coolie.
6. Smt. Maala H.P. W/o Abhishek,
Age: 27 years, Occ: Housewife.
7. Mahadevaswamy H.N., S/o Nagaraju,
Age: 23 years, Occ: Business.

8. Sachin, S/o Siddaraju,
Age: 26 years, Occ: Auto driver.
9. Abhishek, S/o Siddaramaiah,
Age: 323 years, Occ: Business.

All are R/o: Chottanahalli Village,
Konasale Post, Maddur Taluk,
Mandya District.

(R/by Sri Natesha K.B., Advocate)

V/s.

Respondents:

1. The Taluka Executive Magistrate
Maddur Taluk.

R/by the Public Prosecutor.

ORDER

This is a petition U/s.438 of BNSS, filed by the petitioners being aggrieved by the initiation of proceedings against petitioners in AGC/CR/171/2025-26 dated 03.04.2026.

2. The petitioners have challenged the impugned order on several grounds.

3. After registration of the case, notices were issued to the respondents. In response to the notice, the respondents appeared through learned PP.

4. Trial Court records were received.

5. I have heard the argument of learned counsel for the petitioner, learned PP and perused the entire material placed on record.

6. Now the points that arise for my consideration are as under:

1. Whether the petitioners prove that the impugned order passed by the learned Taluka Executive Magistrate, Maddur in AGC/CR/171/2025-26 dated 03.04.2026 is illegal, perverse, against the principles of law and as such liable to be interfered with and set aside?
2. What order?

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

1. In the ***Affirmative***.
2. As per final order, for the following:

REASONS

8. **Point No.1:** The petitioners have challenged the impugned order of the TEM, Maddur in AGC/CR/171/2025-26 dated 03.04.2026 on various grounds noted above. During arguments, the learned Counsel for the petitioners vehemently contended that, the impugned order passed by the TEM, Maddur is against the law and liable to be set-aside. He contended that, the TEM Maddur has not made any personal enquiry and satisfied himself before passing the impugned order. There are no previous antecedents against the petitioners. Hence, the impugned order is not sustainable in law. A single notice is issued to both the parties which is unjustified. Moreover learned TEM solely relied upon police report and issued show cause notice which is impermissible. There is no provision under Cr.P.C./BNSS

for execution of interim bond for keeping with good behaviour. But the learned TEM issued notice for execution of interim bond for good behaviour which is bad in law. There is no previous criminal incident against the petitioners. With these grounds the learned counsel for the petitioners prayed to allow the petition and set aside the impugned order. Per contra the learned PP supported the order of the learned TEM.

9. Having heard the learned Counsel for the petitioners and perusal of the records, it appears that the petitioners have challenged the order of TEM, Maddur U/s.126 of BNSS dated 03.04.2026.

10. It is significant to note that, as per the impugned order, a single notice was issued to both the parties. In **1982 (1) ILR 471 Mahadev V/s. Taluka Magistrate and another**, the Hon'ble High Court of Karnataka has held that, single proceeding under section - show cause notice to two opposing parties - Held, illegal, because the persons proceeded against were in

the position of accused persons and they would be witnesses in the case as against members of other party.

11. In **1977 Criminal Law Journal 1369, Shivaputrappa Gurushantappa V/s. State of Karnataka and another**, the Hon'ble High Court of Karnataka has held as under:

“It is manifest Under Section 107 of the Criminal Procedure code, the Executive Magistrate, who receives information, that any person is likely to commit a breach of the peace is further required to formulate his opinion that there is sufficient ground for proceeding against that person. Only thereafter, he can issue a notice to show cause why the said person should not be ordered to execute a bond, for keeping peace for such period, as may be prescribed by the Magistrate. If the Magistrate, receiving the information, does not formulate any opinion of his own but nevertheless proceeds to make the preliminary order, decidedly, he commit the initial mistake, as the very foundation of the preliminary order would be lacking. In that contingency, the preliminary order itself

will be held to be illegal and the entire proceeding is liable to be quashed.

12. In the light of the above dictum of law, it appears that, the TEM has required to formulate his opinion that there is sufficient ground for proceeding against that persons. Only thereafter he can issue a notice to show cause as to why the said person should not be ordered to execute a bond for keeping peace for such period. If he does not formulate any opinion and straight away issued the notice, the said action taken by him would be bad in law.

13. In the present case also, it appears from the order that, the TEM guided by the report of the PSI, Besagarahalli PS, straight away passed the order without formulating any opinion. So this is also one of the ground for holding that the order passed by the TEM is bad in law.

14. On perusal of the impugned order, it appears that, the TEM has not at all referred any single incident

leading to breach of peace. In **1978 (2) KLJ 324, Thimmaiah T. N. and another V/s. State of Karnataka**, it is held that, the Magistrate to assign reason for calling upon the respondents to enter into interim bond, which is one of the essential conditions required to be complied within a order made under subsection 3 of Section 116 of Cr.P.C. But same is lacking in this case. Hence, the impugned order is liable to be set aside. Moreover the preliminary order under section 130 of BNSS is not passed. On this count also, initiation of proceedings against petitioners is illegal and unjustified.

15. Hence, for all these reasons, I am of the opinion that, the order passed by the TEM is fit to be set-aside. Accordingly, I hold that, the order passed by the TEM is not in accordance with law and fit to be interfered with. Hence, I answer Point No.1 in the **Affirmative**.

16. **Point No.2:** In view of aforesaid reasons on Point No.1, I proceed to pass the following:

ORDER

The Criminal Revision Petition U/s.438 of BNSS filed by the petitioners is hereby **allowed.**

The order passed by the Taluka Executive Magistrate, Maddur in AGC/CR/171/2025-26 dated 03.04.2026 is hereby **set-aside.**

Return the records to the Taluka Executive Magistrate, Maddur along with the copy of the order.

(Dictated to the Stenographer, transcribed by her, script corrected and then order pronounced by me in the open Court on this the 27th day of June 2026)

(Madhvesh Daber)
IV Additional Sessions Judge,
MANDYA.

(Case called out. Order pronounced in the open court vide separate Order.)

ORDER

The Criminal Revision Petition U/s.438 of BNSS filed by the petitioners is hereby **allowed.**

The order passed by the Taluka Executive Magistrate, Maddur in AGC/CR/171/2025-26 dated 03.04.2026 is hereby **set-aside.**

Return the records to the Taluka Executive Magistrate, Maddur along with the copy of the order.

IV Addl. Sessions Judge,
MANDYA.