

KASM600001492026



**IN THE COURT OF V ADDL. DISTRICT &
SESSIONS JUDGE, SHIVAMOGGA,
(SITTING AT SAGAR)**

Dated this the 28th day of July, 2026

Present : SRI.RAVINDRA R., B.A.L., LL.M.,
V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).

Cr.R.P. No.10015/2026

Revision 1. Premaraj
Petitioners S/o Chenne Gowda,
Aged about 58 years,
R/at Tariga,
Amrutha village,
Hosanagara taluk.

2. Sreedhar
S/o Kuberappa Gowda,
Aged about 45 years,
R/at Tariga,
Amrutha village,
Hosanagara taluk.

3. Santhosh
S/o Gangappa,
Aged about 38 years,

R/at Tariga,
Amrutha village,
Hosanagara taluk.

4. Pavan
S/o Premaraj,
Aged about 30 years,
R/at Tariga,
Amrutha village,
Hosanagara taluk.

(By Sri.Ravish Kumar Advocate)

Vs.

Respondents 1. The Tahasildar and the Taluka
Executive Magistrate,
Hosanagara Taluk,
Hosanagara,
Shivamogga District.

2. The State by
Ripponpete Police.

(By Public Prosecutor)

ORDER

The Revision Petitioners have approached this Court questioning the legality and correctness of the initiation of proceedings under section 126 of BNSS 2023 against the petitioners by the respondent no.1 in MAG/CIMIS/01/2025-26.

2. The P.S.I of the Ripponpete police station submitted the report before the Tahasildar, stating that the petitioners herein who are the resident of Tariga Amrutha village, and one Arun S/o Gopalgowda and Smt.Indramma W/o Late Gopal Gowda resident of Tariga Amrutha village, Hosanagara Taluk are two rival groups and they are quarreling against each other with respect to the land dispute. Hence, he reported that there is likelihood of breach of peace by both the groups coupled with erupting law and order problem in the Village and requested the learned Tahsildar, to initiate proceedings under Sec.126 of BNSS.

3. In view of the report of the said police officer of Ripponpete Police station, the respondent no.1 initiated proceedings against the Revision Petitioners by registering case in MAG/CIMIS/01/2025-26.

4. Aggrieved by the said impugned order passed by the respondent no.1, revision petitioners have approached this Court on the following grounds:

The respondent no.1 has not followed the proper procedure before registering the case and passing the impugned order. The respondent no.1 has not followed the

mandatory procedure as contemplated 126 of BNSS 2023. The respondent no.1 failed to consider the fact that the police inspector has not filed any affidavit supporting his requisition. There is absolutely no disclosure of any ground to his satisfaction to proceed against the petitioners. Based on the said false report, the respondent No.1 has initiated the proceedings against the petitioners without following the procedure prescribed under law. Hence, the initiation of the proceedings against the petitioners by the respondent No.1 U/Sec.126 of BNSS is unjudicious and not in accordance with law. On the above said grounds the petitioners have prayed this Court to allow this petition and set aside the proceedings initiated against the petitioners by the respondent no.1 under section 126 of BNSS 2023.

5. Heard both sides. Perused the materials available on record.

6. Following points arise for consideration:

1) Whether the proceedings initiated by the Taluk Executive Magistrate in MAG/CIMIS/01/2025-26 against the petitioners is liable to be set aside as sought for in the petition?

2) What Order?

7. My finding on the above points are as under:

Point No.1 : In the Affirmative;

Point No.2 : As per final order for the following-

REASONS

8. **POINT NO.1** : The revision petitioners have questioned the initiation of proceedings under section 126 of BNSS 2023 against them by the respondent no.1 mainly on the ground of not following the mandatory procedure that is required to be followed before initiating proceedings 126 of BNSS 2023.

9. Perusal of the records reveal that, the learned Tahsildar, has initiated the proceedings against the Petitioners and one Arun and Smt.Indramma on the basis of the report lodged by the P.S.I., Ripponpete Police Station. It is reported that, the petitioners and the said second group, by forming two different groups are quarreling against each other and disturbing the peace in the locality with respect to land dispute. Hence, he reported that there is likelihood of breach of peace by both the groups coupled with erupting law and order problem in the Village and requested the learned Tahsildar, to initiate proceedings under Sec.126 of BNSS.

10. Based on the said report of the PSI., Ripponpete Police Station, the learned Tahsildar has initiated proceedings U/Sec.126 of BNSS against both the parties.

11. Perusal of the records reveal that the proceedings under Sec.126 of BNSS., has been initiated by the learned Tahsildar against the petitioners and the said second group in pursuance to the report lodged by the P.S.I., Ripponpete Police Station. Perusal of the impugned order passed by the respondent no.1 reveals that, the same is not in-conformity with the provisions of Sec.130 of BNSS, as the respondent no.1 has initiated joint proceedings against petitioners and said second group. It is pertinent to mention here that, the Hon'ble High Court of Madras in the Judgment **K.P. Murugesan and others Vs. State by Inspector of Police Keeranur and others reported in 1984 CrI.L.J. 760** has held that;

Criminal P.C. (2 of 1974), Ss.107, 111, 116-Joint enquiry of members of rival groups-Not permissible-Subsequent order under S.111-Illegal. Where the Sub-Divisional Magistrate had clubbed together the members of the A party and the B party which were hostile groups and called upon

them to appear before him and face a joint inquiry and passed an order under S.111 against them, the order was illegal, as Sub-Divisional or Executive Magistrate has no power to club together the members of two hostile groups and pass a joint order under S.111. Further, two opposing parties in a dispute could not be proceeded against under S.107 Cr.P.C. case law referred.

Further it is held that,

As per S.116(5) if two or more persons have been associated together in the matter of an inquiry they can be dealt within the same inquiry or under separate inquiries as the Magistrate shall think just. The words “persons associated together” cannot take within its fold members of two hostile parties. Perhaps members of the same party can be held as persons associated together. But, even in respect of them, there need not always be a joint inquiry. There can either be a joint inquiry or separate inquiries according to the needs of the situation and the propriety of holding a joint inquiry or separate inquiries. But, in so far as rivals are concerned or members of

rival parties are concerned, there can never be a joint inquiry. This is on account of the fact that a joint inquiry of rival parties will not only transgress the power given to Magistrates under S.116(5), but will also result in patent injustice to the parties.

12. Thus, even in the instant case, the respondent no.1 has initiated joint inquiry against two rival groups. Hence, it is clear that, the impugned order passed by the respondent no.1 suffers from illegality and the same calls for interference by this Court. Further, the respondent no.1 must conduct the preliminary enquiry U/sec.126 of BNSS to ascertain the necessity of initiating the proceedings against the petitioners and other rival group. On plain reading of the impugned order it is crystal clear that the order is not in accordance with mandatory provisions of Sections 130 and 126 of BNSS. The impugned order has been passed only on the apprehension that the Petitioners and other rival group may cause disturbance in the village and breach public peace. Hence, the impugned order passed by the respondent no.1 is not sustainable under law. For the reasons stated supra, the petition filed by the petitioners is liable to be allowed. Accordingly, point no.1 is answered in the **Affirmative**.

13. **POINT NO.2:-** In view of the above discussion, I proceed to pass the following-

ORDER

The Revision Petition filed by the Revision Petitioners under Sec.438 and 440 of BNSS is hereby allowed.

The proceedings initiated by the respondent no.1 under section 126 of BNSS 2023 against the Revision Petitioners in MAG/CIMIS/01/2025-26 dated 12.03.2026 is hereby set aside.

Send a copy of this order along with the TCR forthwith to the respondent no.1.

*(Typed to my dictation by Stenographer directly on Computer, corrected by me and then pronounced in the open Court on this the **28th Day of July, 2026**)*

(Ravindra R.)

V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).

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