

CC No. 163/26

Case called out.

Accused No. 1 and 2 are present.

This Court has perused the materials available on record. It is noticed that the Authorized Officer under Section 22 of the MMDR Act has already filed a private complaint against the accused, namely 1) Rajesh Ganapayya Gouda 2) Navin Manjunath Gouda, in respect of the offences punishable under the MMDR Act, and the said complaint is registered as C.C. No. 121/2026. It is further noticed that, in respect of the very same incident, the Police have registered a crime against the very same accused and, after investigation, have filed a charge-sheet for the offence punishable under Section 303(2) of the BNS.

Thus, the private complaint filed by the Authorized Officer under Section 22 of the MMDR Act and the Police case registered for the offence under Section 303(2) of the BNS arise out of the same incident and are against the same accused. The offences under the MMDR Act are exclusively triable by the Special Court.

In this regard, the guidelines laid down by the Hon'ble High Court of Karnataka in **Sri Vivek and Another V/s. State of Karnataka and Another**, particularly the guidelines contained in paragraph No.37, are relevant. As per the said guidelines, (6) if the authorized officer under Section 22 of the MMDR Act, has filed a private complaint, and the Magistrate has taken cognizance of the same, and during the course of inquiry or trial of private complaint, it is made to appear to the Magistrate that an investigation by the police in the same case is pending in relation to the offence which is the subject matter of inquiry

or trial held by him then the Magistrate has to stay the proceedings of such inquiry or trial and call for the report on the matter from the police, and there after commit both the cases to the Special Court, for trial.

Therefore, since the Police case registered against the accused for the offence punishable under Section 303(2) of the BNS arises out of the same incident in respect of which the private complaint under the MMDR Act registered. Therefore, this Court is of the considered opinion that the said Police case also requires to be committed to the competent Special Court for being tried along with the MMDR case, in accordance with law.

Accordingly, the case arising out of the police charge-sheet for the offence punishable under Section 303(2) of the BNS is ordered to be committed to the competent Special Court, to be tried along with private complaint, in accordance with law, subject to the accused furnishing a personal bond and one surety for their appearance before the said Court along with the following conditions:

The accused shall appear before the Hon'ble Court of Sessions, Karwar, as and when directed, and shall continue to appear before the said Court until the conclusion of the trial, unless exempted from such appearance in accordance with law.

The accused are hereby directed to appear before the Hon'ble Court of Sessions, Karwar, as and when intimation regarding the date of appearance is received from the said Court.

Accused are ready to furnish committal surety.

Surety present before the court.

One person by name Annappa Ganapayya Gouda, Aged about: 40 years, Occupation: Agriculturist, R/o:

Hosappattana, Tq: Honnavar, Uttara Kannada District is present is ready and willing to offer surety. He has filed surety affidavit along with declaration U/Sec.486 of BNSS., with his R.T.C., extract bearing Sy. No. 52/2, measuring 00-02-02 situated at Hosappattana village, Honnavar Taluk and photo along with xerox copy of aadhar card for his identification. Surety enquired, found sufficient, hence the surety is accepted.

Office is hereby directed to take bonds accordingly.

The Office is hereby directed to communicate the committal order to the learned Public Prosecutor.

The Office is hereby directed to transmit the entire case records, duly indexed, along with the case properties, if any, to the Hon'ble Court of Sessions, Karwar, at the earliest.

Sd/-
Prl. Civil Judge & JMFC.,
Honnavar.