



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO.880 OF 2026

BETWEEN:

1. SANJAY BISWAL,
S/O GOPINATH BISWAL,
AGED ABOUT 38 YEARS,
R/A: NO.313, 4TH CROSS,
BHUVANESHWARI NAGARA,
RT NAGAR,
BANGALORE - 560 032.
2. RAJASHEKAR B J,
S/O DODDAJAVARE GOWDA,
AGED ABOUT 40 YEARS,
R/A: NO.24, CHIKKABANASAVADI,
HONNANAYAKANAHALLI POST,
KERAGOUDU POST,
BANGALORE - 560 043.
3. ADHARSH H M,
S/O MARISWAMY,
AGED ABOUT 35 YEARS,
R/A : HACHALLI,
KERAGODU POST,
MANDYA - 571446.
4. PANCHALINGA C P,
S/O PRAKASH,



AGED ABOUT 36 YEARS,
R/A: CHIKKANANASAVADI,
KERAGODU HOBLI,
MANDYA TALUK,
MANDYA - 571450.

5. SYED SHAKIR,
S/O SYED KHARIMULLA,
AGED ABOUT 63 YEARS,
R/A : NO.12/1, 17TH CROSS,
LAKKASANDRA,
BANGALORE - 560030.
6. ABDUL ALEEM,
S/O ABDUL JABEER,
AGED ABOUT 54 YEARS,
R/A : NO.8, 4TH CROSS,
MD BLOCK,
MALLESHWARAM,
BANGALORE - 560003.
7. KAUSAR PASHA D M,
S/O MEHAMMAD GHASUS,
AGED ABOUT 60 YEARS,
R/A : NO.19, BBMP CENTRAL,
SHIVAJINAGARA,
BANGALORE - 560051.
8. MEHAMMAD SULTAN KURESHI,
S/O ABDUL WAHID,
AGED ABOUT 60 YEARS,
R/A : NO.6, HKP ROAD,
SELATO HOUSE,
BRADVE CROSS,
BANGALORE - 560051.



9. MAQSOOD,
S/O MAHAMMAD SALIMUDDIN,
AGED ABOUT 45 YEARS,
R/A : NO.132M, B STREET,
2ND MAIN, JJ NAGAR,
BANGALORE - 560018.
10. KHALEEM
S/O ABDUL HAFIZ,
AGED ABOUT 55 YEARS,
R/A : NO.8, THIMMAIAH ROAD,
SHIVAJINAGAR,
BANGALORE - 560051.
11. PIRDOS AHAMMAD
S/O ABDUL HAJIZ,
AGED ABOUT 47 YEARS,
R/A: NO.28, 4TH CROSS,
SULTHANNAGAR,
SHIVAJINAGAR,
BANGALORE-560051.
12. RAMESH RAO,
S/O CHATTOJI RAO,
AGED ABOUT 54 YEARS,
R/A: NO.79, 1ST CROSS,
RAGAVA NAGAR,
NT LAYOUT,
BANGALORE- 560026.
13. DHANANJAY
S/O HANUMANARASIAH,
AGED ABOUT 41 YEARS,
R/A : NO.21, 2ND CROSS,
2ND MAIN, VIJAYANAGARA,



BANGALORE-560040.

14. CHAND ISMAIL
S/O CHAND KHALIL,
AGED ABOUT 66 YEARS,
R/A : NO.21, THIMMAIAH ROAD,
SHIVAJINAGAR,
BANGALORE-560051.
15. BABU
S/O PHARAOH JOHN
AGED ABOUT 61 YEARS,
R/AT : BAMBU BAJAR,
GUNDA ROAD,
SHIVAJINAGAR,
BANGALORE-560051.
16. BALAKRISHNA
S/O RAMAKRISHNA,
AGED ABOUT 28 YEARS,
R/AT : CHIKKABANA,
NARYANAPURA VILLAGE,
SANTHE BACHOHALLI HOBLI,
K R PETE,
MANDYA
17. MAHESH
S/O MAHADEV GOWDA,
AGED ABOUT 35 YEARS,
R/AT : VATALU VILLAGE,
MUGURU HOBLI,
T. NARSIPURA TALUK,
MYSORE



18. MANJUNATH,
S/O RAME GOWDA,
AGED ABOUT 43 YEARS,
R/AT: KAMALAPURA VILLAGE,
RAVANDOOR HOBLI,
PIRIYAPATTANA TALUK
MYSORE

...PETITIONERS

(BY SRI. ADARSHA R., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY KUMBALAGUDU PS,
BENGALURU DISTRICT,
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.

2. DR.B S SUDHAKAR,
FATHER NAME NOT KNOWN,
AGED ABOUT 45 YEARS,
POLICE INSPECTOR, CCB,
SPECIAL INVESTIGATION DEPARTMENT,
SHANTINAGAR,
BENGALURU - 56.

...RESPONDENTS

(BY SRI. CHANNAPPA ERAPPA, HCGP FOR R1)

THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528
BNSS) TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN CC
NO.11317/2025 PENDING ON THE FILE OF THE HONBLE II
ADDL.CJM BANGALORE RURAL FOR THE OFFENCES P/U/S 79



AND 80 OF THE KARNATAKA POLICE ACT 1963 REGISTERED BY THE RESPONDENT NO.1/KUMBALAGUDU POLICE STATION.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

Heard the learned counsel Sri. Adarsha R., appearing for the petitioners, Sri. Channappa Erappa, learned HCGP appearing for respondent No.1 and have perused the material on record.

2. The petitioners are before this Court, seeking the following prayer:

- "a. Call for the entire records in CC No.11317/2025 pending on the file of Hon'ble II Addl Chief Judicial Magistrate Bangalore Rural for the offences punishable under section 79 and 80 of the Karnataka Police Act,1963., registered by the Respondent No.1/Kumbalagudu PS.
- b. Quash the entire criminal proceedings in CC No.11317/2025 pending on the file of Hon'ble II Addl Chief Judicial Magistrate Bangalore Rural for the offences punishable under section 79 and 80 of the Karnataka Police Act,1963., registered by the Respondent No.1/Kumbalagudu PS.
- c. Pass such other relief/reliefs as this Hon'ble court deems fit in the facts and circumstances of the present case in the interest of justice and equity."



3. Learned counsel appearing for the petitioners would submit that the issue in the *lis* stands covered by the judgment rendered by the Co-ordinate Bench of this Court in Crl.P.No.101457/2025 disposed on 10.06.2025, wherein it has held as follows:

"Heard learned counsel for the petitioner and learned High Court Government Pleader.

2. This petition filed by accused No.3 under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short) to quash the cognizance dated 24.07.2024 and entire proceedings initiated against the petitioner – accused No.3 in C.C.No.459/2024 on the file of the II Additional Civil Judge and JMFC-II Court at Gadag arising out of Crime No.33/2024 of Betageri Police Station registered for the offence punishable under Section 78(3) of the Karnataka Police Act, 1963 ("KP Act" for short).

3. Brief facts of the case of the prosecution are as under:

On 08.04.2024 at about 7:30 p.m. the Police Inspector, Betageri Police Station received a credible information, wherein it was alleged that some unknown persons near Rangappajjanamath, Betageri were involved in Cricket betting and betting on the score and result of the IPL 20-20 match held between Chennai Super Kings Vs. Kolkata Knight Riders at M.A.Chidambaram Cricket Stadium in Chennai, Tamil Nadu. This information was received at about 7.15 p.m. Hence, the Police Inspector and his staff conducted the raid at the alleged spot and had drawn the recovery



panchanama in between 7:20 p.m. and 8.20 p.m. on the same day.

4. Under seizure panchanama, the Police Officer seized betting note book, Rs.2,500/- and Rs.900/- from the accused persons. Hence, the Station House Officer Betageri Police Station has registered a case in Crime No.33/2024 for the offence punishable under Section 78 (3) of KP Act. This led to registration of FIR and investigation. Taking exception to the same, the petitioner – accused No.3 filed this criminal petition.

5. The petitioner has stated that the complaint is misconceived and the alleged offence is a non-cognizable one under the provisions of BNSS (Cr.P.C.). The police have no authority to investigate the crime and they have not complied the mandatory requirements of Section 155 (2) of Cr.P.C. It is contended that when the Officer In-charge of the Police Station received an information regarding commission of non-cognizable offence, he shall enter the same in the Register maintained in the said police station and refer the informant to the Magistrate. Further as per Section 155 (2) of Cr.P.C, no police officer shall investigate a non-cognizable offence without the order of the Magistrate, having power to try such case or to commit such case for trial. But there is no iota of evidence to show that the above requirements are complied with in the present case. Though there is an order passed by the jurisdictional Magistrate for permitting the police to take up the investigation, but there is no speaking order to that effect. The alleged raid was conducted in between 7:20 p.m. to 8:20 p.m, however, the information was received in the Police Station at 9:55 p.m. on the said date. Therefore, the proceedings initiated against the petitioners liable to be quashed.



6. Learned High Court Government Pleader submitted that, the jurisdictional Magistrate has permitted to the concerned Police Officer to take up the investigation and therefore there is substantial compliance of Section 155(2) of Cr.P.C.

7. It is not in dispute that the alleged offence under Section 78(3) of the KP Act is non cognizable one and when the report is received by the SHO of the police station in respect of commission of non cognizable offence, the SHO has to follow the mandatory requirements under Sections 155 (1) and 155 (2) of Cr.P.C. Sections 155(1) and 155(2) of Cr.P.C read as under:

155. Information as to non-cognizable cases and investigation of such cases:- (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.



8. Therefore in view of the aforesaid proposition of law, it is the duty of the police officer to enter the substance of information in the prescribed book and refer the informant to the Magistrate as required under Section 155(1) of Cr.P.C and thereafter the jurisdictional Magistrate is required to pass an order permitting the police officer to investigate the case as required under Section 155(2) of Cr.P.C. Therefore, unless the police officer is permitted by the Magistrate in an order to investigate the non-cognizable offence, the police officer does not get jurisdiction to investigate the matter and file final report or charge sheet.

9. The Co-Ordinate Bench of this Court in the case of **Vaggeppa Gurulinga Jangaligi (Jangalagi) vs. The State of Karnataka¹**, considering non-compliance of mandatory provisions of Section 155(1) and (2) of Cr.P.C., has held as under:

"20. Therefore, under Rule 1, the Magistrate shall endorse on the report whether the same has been received by post or muddam. Under Rule 2, Magistrate has to specify in his order the rank and designation of the police officer or the police officer by whom the investigation shall be conducted. Considering the mandatory requirement of Section 155(1) and (2) of Cr.P.C. and Rule 1 and 2 of Chapter V of the Karnataka Criminal Rules Practice, this Court proceed to laid down the following guidelines for the benefit of the judicial



Magistrate working in the State.

i) The Jurisdictional Magistrates shall stop hereafter making endorsement as 'permitted' on the police requisition itself. Such an endorsement is not an order in the eyes of law and as mandated under Section 155(2) of Cr.P.C.

ii) When the requisition is submitted by the informant to the Jurisdictional Magistrate, he should make an endorsement on it as to how it was received, either by post or by Muddam and direct the office to place it before him with a separate order sheet. No order should be passed on the requisition itself. The said order sheet should be continued for further proceedings in the case.

iii) *When the requisition is submitted to the Jurisdictional Magistrate, he has to first examine whether the SHO of the police station has referred the informant to him with such requisition.*

iv) *The Jurisdictional Magistrate should examine the contents of the requisition with his/her judicious mind and record*



finding as to whether it is a fit case to be investigated, if the Magistrate finds that it is not a fit case to investigate, he/she shall reject the prayer made in the requisition. Only after his/her subjective satisfaction that there is a ground to permit the police officer to take up the investigation, he/she shall record a finding to that effect permitting the police officer to investigate the non-cognizable offence.

v) In case the Magistrate passes the orders permitting the investigation, he/she shall specify the rank and designation of the Police Officer who has to investigate the case, who shall be other than informant or the complainant."

10. Whereas in this case, the information was received on 08.04.2024 at 9.55 p.m. however, the investigating officer conducted raid in between 7:20 p.m and 8:20 p.m., on the same day.

11. In view of the mandatory requirements stated in Sections 155 (1) and 155 (2) of Cr.P.C and the ratio laid down in the case stated supra, the SHO of police station has no authority, unless jurisdictional Magistrate permits for investigation of non-cognizable offence. Whereas in the instant case, the learned Magistrate has passed an order on the



requisition submitted by the SHO of Police Station by awaiting the orders as "*you are hereby permitted to register the case and the SHO of Betageri P.S. shall investigate the matter and submit the final report*". But this Court in catena of decision held that the said endorsement on the requisition submitted by the Police Officer is not a judicious order having applied its mind and there is no application of judicious mind in permitting the police officer to take up the investigation for the non-cognizable offence. Therefore, the SHO of a police station if received a complaint from the PSI and in turn, the SHO has to submit a requisition to the jurisdictional Magistrate seeking permission to investigate an offence punishable under Section 78(3) of the KP Act, which is a non-cognizable offence.

12. It is seen that the jurisdictional Magistrate has ade an endorsement stating that 'SHO is directed to register the case and investigate the matter and submit final report. Therefore, absolutely there is no application of judicious mind by the learned Magistrate before permitting he police officer to investigate a non-cognizable offence, much less, an order passed by the learned Magistrate.

13. It shows that the respondent police had no authority to investigate the matter. Under these circumstances, the proceedings initiated against the petitioner-accused No.3, by the learned magistrate are liable to be quashed. Accordingly, this Court proceed to pass the following :

ORDER

(i) The criminal petition is ***allowed***.

(ii) The cognizance dated 24.07.2024 and the proceedings initiated against the petitioner – accused No.3 in Crime No.33/2024 of Betageri Police Station



registered for the offence punishable under Section 78(3) of the KP Act in C.C.No.459/2024 pending on the file of II Additional Civil Judge and JMFC-II, Gadag, in so far as petitioner – accused No.3 is concerned are quashed.

In view of disposal of the criminal petition, I.A.No.1/2025 does not survive for consideration and accordingly the same is disposed of."

In the light of the order passed by the Co-ordinate Bench of this Court (*supra*) and for the reasons aforementioned, the following:

ORDER

- (i) The Criminal Petition is allowed.
- (ii) The proceedings in C.C.No.11317/2025 pending before the II Additional Chief Judicial Magistrate, Bangalore Rural, stand quashed, *qua* these petitioners.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**