



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
CRIMINAL PETITION NO.102436 OF 2025
(482 OF Cr.PC/528 OF BNSS)

BETWEEN:

1. GAJANAN KESHAV NAYAK,
A/A 49 YEARS,
OCC: BUSINESS,
R/O. DATTA NIVAS,
MAHILA MANDAL ROAD,
YELLAPUR,
U. K. DISTRICT-581359.
2. SACHIN SATISH BALKUR,
A/A 27 YEARS, BUSINESS,
R/O. GOPALAKRISHNA GALLI,
YELLAPUR ,
U.K. DISTRICT-581358.

...PETITIONERS

(BY SRI ARUNACHAL P. HEGDE, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY,
SUB- INSPECTOR OF POLICE,
YELLAPUR POLICE STATION,
UTTARA KANNADA DISTRICT,



REPRESENTED BY
STATE PUBLIC PROSECUTOR,
DHARWAD BENCH-580011.

2. SUNIL SUBHASH GOWADE,
A/A 44 YEARS,
CHIEF OFFICER,
PATTAN PANCHAYAT,
YELLAPUR,
UTTARA KANNADA DISTRICT-581359.

...RESPONDENTS

(BY SRI ABHISHEK MALIPATIL, HCGP FOR R1;
SRI DINESH M. KULKARNI, ADV. FOR R2)

THIS CRIMINAL PETITION IS FILED U/S.528 OF
BHARATIYA NAGARIKA SURAKSHA SANHITA, 2023 (U/S.482 OF
CR.P.C.) PRAYING TO QUASH THE COMPLAINT, FIR AND CHARGE
SHEET REGISTERED BY YELLAPUR POLICE IN CRIME
NO.0179/2024 AND THE CRIMINAL PROCEEDING REGISTERED
AT C.C.NO.12/2025 FOR OFFENCE U/S.305 OF BNS, BEFORE
PRINCIPAL CIVIL JUDGE AND JMFC COURT, YELLAPUR OF
UTTARA KANNADA DISTRICT, IN RESPECT OF PETITIONERS/
ACCUSED NO.1 & 2, IN THE INTEREST OF JUSTICE AND ETC.

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

CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR



ORAL ORDER

The accused/petitioners have filed this petition under Section 482 of Cr.P.C. praying to quash the proceedings with the following prayer:

"I) Quash the Complaint, F.I.R. & Charge Sheet registered by Yellapur Police in Crime No.0179/2024 and the Criminal Proceeding registered at C.C.No.12/2025 for offence u/s 305 of BNS before Principal Civil Judge & J.M.F.C. Court Yellapur of Uttara Kannada District, in respect of petitioner/accused Nos.1 and 2.

II) And grant such other suitable relief deemed fit and proper, including costs, in the interest of justice."

2. It is the brief case of prosecution as per complaint averments, FIR, charge sheet and other materials that the accused have taken the file which was kept on the table in the Panchayat office which was informed to the complainant and the complainant upon perusal of the CCTV footage came to know that both the accused have taken the file and subsequently on the same day night at 08.10 p.m. the file was returned to the office. The file is pertaining to Form No.3 renovation file. With this allegation crime is registered against the accused/petitioners.



3. Heard Sri.Arunachal P. Hegde, learned counsel for the petitioners/accused, Sri.Abishek Malipatil, learned counsel appearing for the respondent No.1/State and Sri.Dinesh M Kulkarni, learned counsel appearing for respondent No.2/complainant.

4. Learned counsel appearing for the petitioners/accused submitted that the accused by mistaken impression have taken the file with them on the guise that the file belongs to them and later on accused have returned the said file to the office, which is revealed in the complaint. Therefore, here it is submitted that the prosecution has failed to demonstrate what is the intention by the accused and unlawful gain from such alleged allegation of theft of file. It is further submitted that in the absence of these ingredients the offence alleged is not attracted. Therefore, prays to quash the proceedings against accused/petitioners.



5. On the other hand, learned HCGP submitted that from the CCTV footage kept in the office of the Panchayat it is revealed that both the accused have taken the file. Though the file was returned to the office but taking away the file is proved by the prosecution and it is a matter for trial. Hence, prays to dismiss the petition.

6. Upon considering the complaint averments, charge sheet and other materials, the file is Form No.3 - renovation file. As per the complaint and charge sheet materials the said file was returned to the office on the very same day at 08.10 p.m. Here upon considering the charge sheet materials what is so important material is in the file so as to commit theft of the file for unlawful gain, is not forthcoming from the charge sheet. It is true that the file was taken away by the accused/petitioners, but just because the file is taken away always cannot be said that it is a commission of theft that would constitute the theft of an article and the person by doing so the commission of



theft should have either intention for making unlawful gain from the stolen article, but in the present case from the charge sheet materials it is not revealed that with what intention to make unlawful gain the file was taken away is not revealed in the charge sheet. Unless prima facie these two ingredients are made out, it is doubtful whether theft is with real intention for making unlawful gain. Therefore, there is force found in the submission made by the learned counsel for the petitioners/accused that under the mistaken impression the accused might have taken away the file but without having any intention. Therefore, to proceed with the trial but ingredients of the offence of theft atleast prima facie to be found in the materials to proceed with the trial, but that is not found in the charge sheet materials. Therefore, to secure the ends of justice as the complaint is filed under mistaken impression, the proceedings against the petitioners/accused is liable to be quashed.



Hence, I proceed to pass the following:

ORDER

- i) The petition is ***allowed***.
- ii) The Complaint, F.I.R. and Charge Sheet registered by Yellapur Police in Crime No.0179/2024 and the criminal proceedings registered in C.C.No.12/2025 for the offence punishable under Section 305 of BNS before the Principal Civil Judge and J.M.F.C. Court, Yellapur of Uttara Kannada District in respect of petitioners/accused Nos.1 and 2, is hereby quashed.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**