



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO.201520 OF 2025

(482(Cr.PC)/528(BNSS))

BETWEEN:

1. MALLESH @ PETROL MALLU
S/O TIMMANNA,
AGE: 39 YEARS, OCC: MECHANIC,
R/O BRUVANDA VANA COLONY, DEVADURGA,
TQ. DEVADURGA, DIST. RAICHUR-584111.
2. SUMANGALA W/O MALLESH,
AGE: 29 YEARS, OCC: HOUSEHOLD,
R/O BRUVANDA VANA COLONY, DEVADURGA,
TQ. DEVADURGA, DIST. RAICHUR-584111.

Digitally signed
by RENUKA
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI MAHANTESH PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
REPRESENTED BY ADDL. S.P.P.,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH,
(THROUGH DEVADURGA P.S.,
DIST.RAICHUR-584111).

...RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN, HCGP)



THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (OLD), UNDER SECTION 528 OF BNSS (NEW), PRAYING TO QUASH THE ORDER OF COGNIZANCE DATED 26.03.2025 AND ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.69/2025 REGISTERED BY RESPONDENT POLICE/DEVADURGA POLICE STATION FOR THE OFFENCE PUNISHABLE UNDER SECTION 78(3) OF KARNATAKA POLICE ACT, PENDING ON THE FILE OF LEARNED CIVIL JUDGE AND JMFC DEVADURGA, DISTRICT RAICHUR, INsofar AS PETITIONERS ARE CONCERNED.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

This petition is filed seeking quashing of the proceedings pending in C.C.No.69/2025 for the offence punishable under Section 78(3) of the Karnataka Police Act, pending before the Civil Judge and JMFC, Devadurga.

2. The case of the prosecution is that, upon receipt of credible information on 17.12.2024 at about 7:00 p.m., it was found that accused No.1 was indulging in playing Matka Chit at a public place. Acting upon the said information, the concerned police officials conducted a raid



at the spot and recovered a sum of Rs.2,300/-, one Matka chit, one ball pen, and one mobile phone from accused Nos.1 to 5.

3. It is further alleged by the prosecution that accused Nos.2 to 5 were engaged in selling Matka chits through WhatsApp to accused No.1. Pursuant to the said information, the police undertook investigation, conducted a spot mahazar, and thereafter registered a case in Crime No.391/2024 on 18.12.2024.

4. Learned counsel for the petitioners, reiterating the grounds urged in the petition, would submit that the offence alleged under Section 78(3) of the Karnataka Police Act is admittedly a non-cognizable offence. Therefore, registration and investigation of the case, without obtaining prior permission of the Magistrate, are in clear contravention of sub-section (2) of Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Reliance is placed on a judgment of the Co-ordinate Bench of this



Court in an identical matter, wherein proceedings initiated in violation of the said provision were quashed. It is thus contended that the present proceedings also deserve to be quashed on the same ground.

5. *Per contra*, the learned High Court Government Pleader submitted that the investigation has been conducted in accordance with law, that due procedure has been followed, and hence, no interference is warranted by this Court.

6. On perusal of the records, it is evident that the Investigating Officer has proceeded to investigate the matter without adhering to the mandate of sub-section (2) of Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which categorically provides that no police officer shall investigate a non-cognizable case without an order of a Magistrate having jurisdiction to try such case. In the instant case, the investigation was undertaken in the absence of such order, thereby rendering the entire



procedure illegal and vitiated. The infraction of the statutory mandate goes to the root of the matter and invalidates the subsequent proceedings.

7. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The Criminal Petition is hereby allowed.
- (ii) The order of cognizance dated 26.03.2025 and the entire criminal proceedings in C.C.No.69/2025, arising out of Crime No.391/2024 registered by Devadurga Police Station for the offence punishable under Section 78(3) of the Karnataka Police Act, pending before the Civil Judge and JMFC, Devadurga, District Raichur, insofar as the petitioners are concerned, are hereby quashed.



(iii) All pending interlocutory applications, if any,
stand disposed of.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

RSP
List No.: 1 SI No.: 20
CT:SI