



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 13TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO.201515 OF 2025
(482(Cr.PC)/528(BNSS))

BETWEEN:

MALLIKARJUN @ MALLU
S/O TIMMANNA,
AGE: 39 YEARS, OCC: MECHANIC,
R/O DEVADURGA, TQ. DEVADURGA,
DIST. RAICHUR-584111.

...PETITIONER

(BY SRI. MAHANTESH PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
REPRESENTED BY ADDL. S.P.P.
HIGH COURT OF KARNATAKA
KALABURAGI BENCH,
(THROUGH JALAHALLI 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 26.04.2024 AND ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.316/2024 (CRIME NO.46/2024) REGISTERED BY RESPONDENT POLICE/JALAHALLI POLICE STATION FOR THE OFFENCE PUNISHABLE UNDER SECTION 78(3) OF KARNATAKA POLICE ACT, PENDING ON THE FILE OF LEARNED SENIOR CIVIL JUDGE AND JMFC AT DEVADURGA, DISTRICT RAICHUR, INsofar AS PETITIONER IS CONCERNED.

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

Digitally signed
by RENUKA
Location: HIGH
COURT OF
KARNATAKA



CORAM: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

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

The petitioner in the captioned petition is seeking quashing of the proceedings pending in C.C.No.316/2024 (arising out of Crime No.46/2024 registered by Jalhalli Police Station) on the file of Senior Civil Judge and JMFC at Devadurga, Raichur District, for the offence punishable under Section 78(3) of the Karnataka Police Act.

2. Learned counsel for the petitioner reiterating the grounds urged in the petition has placed reliance on the reported judgment rendered by the Co-ordinate Bench of this Court in the case of ***Asif and another vs. The State of Karnataka***¹ and the judgment rendered by the Co-ordinate Bench of this Court in the case of ***VishwanathSwami vs. State of Karnataka***². Referring

¹ CRL.P.No.201594/2024 D.D. 01.07.2025

² CRL.P.No.100062/2022 D.D. 07.02.2022



to these two judgments, he would point out that the issue on hand is substantially addressed and given a quietus.

3. *Per contra*, learned High Court Government Pleader appearing for the respondent-State would point out that no indulgence is warranted and therefore, a request is made to dismiss the petition.

4. The issue that arises for consideration before this Court is whether the Police officials were justified in registering a case without obtaining prior permission from the jurisdictional Magistrate, as mandated under Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023. In an identical matter, a Co-ordinate Bench of this Court has categorically held that registration of a crime in respect of non-cognizable offences and the consequent investigation, without securing prior permission from the jurisdictional Magistrate, is impermissible in law. Sub-section (2) of Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023 expressly bars a Police Officer from investigating



non-cognizable offences unless an order of the jurisdictional Magistrate is obtained. The said legal position stands concluded and is squarely governed by the binding precedent rendered by this Court.

5. In the present case, the prosecution allegations disclose that the Police Sub-Inspector of Jalhalli Police Station, upon receiving information that a person was engaged in 'Matka' gambling near Anjaneya Temple, a public place, proceeded to register a case for the offence punishable under Section 78(3) of the Karnataka Police Act. It is an admitted position that the Police registered the case and initiated investigation without obtaining prior permission from the learned Magistrate as required under Section 174(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023. In view of the statutory mandate and the authoritative pronouncement of the Co-ordinate Bench, the proceedings in the present case stand vitiated for want of such permission.



6. For the foregoing reasons, this Court passes the following:

ORDER

- i. The petition is hereby allowed.
- ii. The entire criminal proceedings in C.C.No.316/2024 (arising out of Crime No.46/2024 registered by Jalhalli Police Station), pending on the file of the Senior Civil Judge and JMFC, Devadurga, Raichur District, for the offence punishable under Section 78(3) of the Karnataka Police Act, are hereby quashed insofar as the petitioner is concerned.
- iii. In view of the disposal of the main petition, any pending interlocutory application does not survive for consideration and stands disposed of accordingly.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

NB
List No.: 1 Sl No.: 15
CT:SI