



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD BENCH

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL PETITION NO.104459 OF 2025

BETWEEN:

1. JABIULLA
S/O BASHA SAB
AGE 30 YEARS
OCC: BUSINESS
R/O HAGARIBOMMANAHALLI TQ
H B HALLI DIST
VIJAYANAGAR 591 222.

NOW AT W.NO.14, SONIA GANDHI NAGAR
H.B. HALLI, BALLARI-591 222.

2. CHAND BASHA
S/O BASHA SAB
AGE 31 YEARS
OCC: BUSINESS
R/O HAGARIBOMMANAHALLI TQ
H B HALLI DIST
VIJAYANAGAR 591 222.

NOW AT TALUK OFFICE, NEAR BHOVI COLONY
H.B. HALLI, BALLARI-591 222.

3. KHALANDAR
S/O KHAN SAB
AGE 35 YEARS
OCC: ELECTRICIAN
R/O HAGARIBOMMANAHALLI TQ
H B HALLI DIST
VIJAYANAGAR 591 222.



NOW AT BILAL MASJID NEAR
BHOVI COLONY, H.B.HALLI
BALLARI-591 222.

4. NAYAZ H
S/O RAJASAB
AGE 31 YEARS
OCC: BUSINESS
R/O HAGARIBOMMANAHALLI TQ
H B HALLI DIST
VIJAYANAGAR 591 222.

NOW AT BEHIND JAMIYA MASJID
BASAVESHWAR BAZAR
H.B. HALLI
BALLARI-591 222.

...PETITIONERS

(BY SRI BALLOLI SHIVRAJ SIDDARAM, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH COWLBAZAR POLICE STATION
REPRESENTED BY THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA, DHARWAD BENCH
DHARWAD 580 001.

...RESPONDENT

(BY SRI ABHISHEK MALIPATIL, H.C.G.P.)

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THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (528 OF BNSS), PRAYING TO ALLOW THE PETITION AND QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C. NO.1026/2024 PENDING ON THE FILE OF THE II ADDITIONAL CIVIL JUDGE AND J.M.F.C. COURT, BALLARI, FOR THE OFFENCES PUNISHABLE U/S. 78(1)(a)(vi) OF KARNATAKA POLICE ACT, 1963, ARISING OUT OF CRIME NO.188/2021 OF COWLBAZAR POLICE STATION IN SO FAR AS THE PETITIONERS/ACCUSED NOS.1 TO 4 ARE CONCERNED.

THIS PETITION IS COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE VENKATESH NAIK T



ORAL ORDER

This petition is filed under Section 482 of Cr.P.C (528 of BNSS) praying to quash the entire proceedings in C.C.No.1026/2024 pending on the file of learned II Addl. Civil Judge and JMFC, Ballari registered by Cowlbazar police station, Ballari, for the offence punishable under Section 78(1)(a)(vi) of The Karnataka Police Act, 1963 (for short K.P. Act).

2. Heard learned counsel appearing for the petitioners and learned HCGP appearing for respondent-State.

3. The case of the prosecution is that on 10.11.2021, the respondent police lodged the complaint to the SHO Cowlbazar police station alleging that, on the same day, when he was in the police station, he received credible information about cricket betting of T20 World Cup 2021 match at Kuvempu Nagar Main Road, Ballari. Therefore, the respondent Police along with his sub-staff and panchas went to TB Santorium and noticed seven to eight persons were engaged in cricket betting in white colour Scorpio vehicle bearing No.KA 31/M 5386. Hence, the complainant and his sub-staff conducted raid and three persons escaped from the spot and two were caught hold. Hence, the



complainant recovered a sum of Rs.12,00,000/-, mobile phones and a vehicle under the seizure panchanama. In turn, the Deputy Superintendent of Police, DCRB unit, Ballari lodged the first information to SHO of Cowlbazar police station. Hence, the SHO registered the case in Crime No.188/2021 for the offence punishable under Section 78(a)(vi) of K.P. Act. This led to registration of FIR and investigation. Taking exception to the same, the petitioners have filed this petition.

4. The petitioners have stated that the complaint is misconceived and the alleged offence is a non cognizable one. Under the provisions of Cr.P.C., the police have no authority to investigate the crime and the police have not complied with mandatory requirements of Section 155(1) of Cr.P.C. It is contended that when the officer-in-charge of police station receives an information regarding commission of a non-cognizable offence, he shall enter the same in a book to be maintained by the said officer and refer the informant to the magistrate.

5. It is contended that as per Section 155(2) of Cr.P.C, no police officer shall investigate 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 and there is no speaking order by the jurisdictional Magistrate for permitting the police to take up the investigation. Therefore, the proceedings initiated against the petitioners in the charge sheet are liable to be quashed.

6. Learned HCGP submitted that the jurisdictional Magistrate has permitted the concerned police officer to take up the investigation and therefore, there is compliance of Section 155(2) of Cr.P.C.

7. It is not in dispute that the alleged offence under Section 78(3) of K P Act is a 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 requirement of Sections 155(1) and 155(2) of Cr.P.C. Sections 155(1) and (2) of Cr.P.C. reads as under:-

155.(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-cognisable 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 a final report or the charge sheet.

9. This Court in the case of **Vaggeppa Gurulinga Jangaligi (Jangalagi) vs. The State of Karnataka** reported in



ILR 2020 KAR 630, 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. In view of the mandatory requirements stated in Section 155(1) and (2) of Cr.P.C. and the ratio laid down in the Vaggeppa case referred *supra*, the SHO of a police station has no authority unless the jurisdictional Magistrate permits him for investigation of a non-cognizable offence. Whereas, in the instant case, the learned Magistrate has passed an order on the requisition submitted by the SHO of the police station by writing the words as 'IO is directed to conduct the investigation'. But, this Court in catena of decisions 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 a 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(a)(vi) of the K.P.Act, which is a non-cognizable offence.

11. It is seen that the jurisdictional Magistrate has made an endorsement stating that 'IO is directed to conduct the investigation'. Therefore, absolutely there is no application of judicious mind by the learned Magistrate before permitting the police officer to investigate a non-cognizable offence, much less, an order passed by the learned Magistrate.

12. It shows that the respondent police had no authority to investigate the matter. This Court on 26.07.2024 had quashed the case against accused No.5-Shiva Kumar and accused No.6-Pradeep P. in Crl.P. No.101955 of 2025. Under these circumstances, on the ground of parity, the proceedings initiated in this case against the petitioners-accused Nos.1 to 4 by the learned magistrate requires to be quashed. Accordingly, the Court passes the following:

ORDER

- i) The petition is allowed.



ii) The proceedings initiated against the petitioners for the offence punishable under Section 78(1)(a)(vi) of the K.P.Act in C.C.No.1026/2024 pending on the file of II Addl. Civil Judge and JMFC, Ballari, is quashed.

Sd/-
(VENKATESH NAIK T)
JUDGE

AM
List No.: 19 Sl No.: 7