



CNR: KAHC010145202022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO. 6740 OF 2022 (GM-RES)

BETWEEN:

- 1 . JITHENDRA
AGED ABOUT 26 YEARS
S/O SHIVANANDA SWAMY
R/AT VIDYANAGAR LAYOUT
HULLATHI BUS STOP
SAGARA,
SHIVAMOGGA - 577 429.
- 2 . HEMAVATHI
AGED ABOUT 48 YEARS
W/O SHIVANANDA SWAMY
R/AT VIDYANAGAR LAYOUT
HULLATHI BUS STOP
SAGARA,
SHIVAMOGGA - 577 429.

Digitally signed
by ANU SHA V
Location: High
Court of
Karnataka

...PETITIONERS

(BY SRI HARSHA G.C., ADVOCATE FOR
SRI NISHIT KUMAR SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REP BY STATION HOUSE OFFICER
MANIPAL POLICE STATION
UDUPI DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR



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HIGH COURT BUILDINGS
BENGALURU - 560 001.

2. SRI MANJUNATHA M
AGED ABOUT 43 YEARS
POLICE INSPECTOR
MANIPALA POLICE STATION
UDUPI - 576 104.
3. SRI RAJASHEKARA VANDALI
POLICE SUB INSPECTOR
MANIPALA POLICE STATION
UDUPI - 576 104.

...RESPONDENTS

(BY SMT.SOWMYA R., HCGP FOR R1;
NOTICE TO R2 & R3 - SERVED & UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 11/03/2022 GRANTING PERMISSION TO RESPONDENT NO.3 TO REGISTER THE CASE AND CONDUCTING THE FURTHER INVESTIGATION PASSED BY THE II ADDL. CIVIL JUDGE (JR.DN) AND JMFC UDUPI IN N.C.31/2022 (ANNEXURE-A). QUASHING THE FIR DATED 15.03.2022 AGAINST THE PETITIONERS IN CRIME NO.39/2022 OF MANIPAL POLICE STATION REGISTERED FOR THE OFFENCES UNDER SECTION 506 OF IPC, ON THE FILE OF I ADDL. CIVIL JUDGE (JR.DN) AND JMFC, UDUPI (ANNEXURE-B).

THIS PETITION IS COMING ON FOR '*Dictating Orders*', THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 11.03.2022 passed by II Addl. Civil Judge & JMFC, Udupi (Annexure-A) in NC no.31/2022 and registration of FIR dated 15.03.2022 in Crime no.39/2022 by Manipal Police Station for offences under Section 506 of Indian Penal Code, 1860 (**IPC**) (Annexure-B) presently stated to be pending before II Addl. Civil Judge and JMFC, Udupi.

2. Sri Harsha GC., learned counsel appearing for Sri Nishit Kumar Shetty, advocate for petitioners submitted that petitioners were accused no.1 and 2 (**petitioners**) in Crime no.39/2022 registered on complaint by respondent no.2 (**complainant**) dated 11.03.2022 stating that about 8:38 pm on 17.02.2022, when he was discharging official duties as Police Inspector of Manipal Police Station, he received a call on his CUG mobile number 94808085448, wherein unknown caller from mobile number 9449339062 said he was Narendra, younger brother of Home Minister and stating name of MD of Power TV with intention to create fear and with ulterior motive abused complainant about permission given to bars/pubs and



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threatened to have complainant transferred from Manipal Police Station. Based on same, complaint was given to SHO, Manipal Police Station, who noted it as NC no.31/2022. But, in guise of enquiry, investigation was conducted, wherein police traced SIM card/mobile number to Smt.Usha S. Andavalli of Heche village of Sorab taluk who had died, but SIM was being used by her brother - Jitendra (accused no.1) and mother - Hemavati (accused no.2). And by stating that despite service of notices though neighbor, petitioners were unwilling to cooperate for enquiry in relation to non-cognizable offence, endorsement was issued to obtain order from competent Court. And requisition was filed before II Addl. Civil Judge and JMFC, Udupi on 11.03.2022. However, learned Magistrate erroneously passed order under Section 155 (2) of Code of Criminal Procedure, 1973 (**CrPC**) for registration of complaint against petitioners. Based on same FIR in Crime no.39/2022 was registered by Manipal Police Station on 15.03.2022 for offence punishable under Section 506 of IPC. Aggrieved present petition filed.

3. At outset it was submitted offence alleged was non-cognizable and even as per complaint, owner of SIM



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card/Mobile number was dead and requisition would not disclose ingredients of offence against petitioners. It was submitted, as held by Hon'ble Supreme Court in **Madhushree Datte v. State of Karnataka & Anr.** reported in **(2025) 3 SCC 612**, to constitute offence of criminal intimidation under Section 506 of IPC, prosecution must establish *direct threat of injury accompanied with specific intent to cause alarm*. And as held by Hon'ble Supreme Court in **Manik Taneja & Anr. v. State of Karnataka & Anr.** reported in **(2015) 7 SCC 423**, intent to cause alarm was *sine qua non* for offence of 'criminal intimidation' and mere expression of angry, discourteous, or threatening words venting frustration against public officials on social media did not amount to criminal intimidation without intent to cause alarm or force any action.

4. It was submitted, on receipt of information about non-cognizable offence, police were required to record information and refer informant to jurisdictional Magistrate and proceed with investigation only after order under Section 155 (2) of CrPC. But in instant case, even prior to registration of non-cognizable offence report (NCR) and obtaining permission



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of jurisdictional Magistrate under Section 155 (2) of CrPC, in guise of enquiry, Police collected material and issued notices to petitioners which were in nature of investigation, which was foundational defect. Under similar circumstances, High Court of Kerala in case of **Haneefa & Ors. v. State of Kerala & Anr. [2022:KER:69289]**, held initiation of investigation into non-cognizable offence without Magistrate's order rendered entire investigation faulty and quashed proceedings.

5. And to rebut contention of respondent State about antecedents, petitioners relied on ratio laid down by Hon'ble Supreme Court in **Mohammad Wajid & Anr. v. State of UP & Ors.** reported in **2022 SC OnLine SC 2048**, that existence of criminal antecedents cannot be sole criteria to refuse quashing of FIR or criminal proceedings and held that in a quashing petition, Court must look at specific allegations of immediate case and vague, omnibus and general statements lacking particulars are legally insufficient to sustain prosecution for offences under Sections 504 and 506 of IPC. On above grounds prayed to allow petition.



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6. Smt.Sowmya R, learned HCGP for respondent no.1-State opposed petition. It was submitted after registering NCR and issuing endorsement, complaint was placed before Court for permission. And there was no prohibition against preliminary enquiry in this case about usage of SIM card. It was submitted, learned Magistrate had applied judicial mind to contents of information and documents enclosed to requisition and after *prima facie* satisfaction granted permission to register FIR and investigate. And therefore, there was no merit in challenge and on said ground prayed for dismissal of petition.

7. Heard learned counsel and perused material on record.

8. This petition is filed by accused challenging order passed by Magistrate for registration of FIR for non-cognizable offences and consequent registration of FIR for offence under Section 506 of IPC.

9. Main grounds of challenge are non-compliance with Section 155 (2) of CrPC i.e. commencement of investigation without orders of Magistrate in non-cognizable offence and



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about grant of permission without application of mind by Magistrate.

10. Section 155 of CrPC in in four parts. Sub-section (1) provides that after information is received by police officer about a non-cognizable offence, he has to note substance of information and refer informant to Magistrate. Sub-section (2) prohibits investigation of non-cognizable offence without written order of Magistrate. Sub-section (3) provides that on receipt of order police officer can exercise all powers of investigation as in cognizable offence case. Sub-section (4) provides that in case of amalgam of cognizable and non-cognizable offences, sub-sections (1) and (2) would not apply.

11. In this case after receipt of information about non-cognizable offence, police traced mobile number, ascertained name of registered subscriber, verified that subscriber was deceased, traced usage of SIM card by petitioners and issued notices to them to participate in enquiry. These steps cannot be stated to be in nature of enquiry about occurrence of offence but directed towards identifying alleged offenders and collecting



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material in relation to alleged offence and in nature of investigation defined under Section 2 (h) as:

*"investigation" includes all the proceedings under this Code for the **collection of evidence** conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;*

12. Indisputably, said acts are prior to issuance of endorsement and issuing requisition and evidently much before Magistrate passing order for registration of FIR and for investigation. Referring to various earlier decisions, this Court in **Vaggeppa Gurulinga Jangaligi v. State of Karnataka** reported in **2019 SCC OnLine Kar 2708**, has laid down certain guidelines on issue as follows:

"18. Under these circumstances, this Court felt it necessary today down some guidelines for the benefit of our Judicial Magistrates as to how they have to approach and pass orders when requisition is submitted by the SHO of Police Station seeking permission to investigate into the non-cognizable offence. The provision of Section 155(1) and (2) of Cr. P.C., referred above make it very much clear that the SHO of the Police Station on receiving the information regarding the commission of non-cognizable offence, his first duty is to enter or cause to be entered the substance of such commission in a book maintained by such Officer and then refer the informant to the Magistrate. This is the requirement of Section 155(1) of Cr.P.C. Once the requisition is submitted to the Magistrate, it is for the Jurisdictional Magistrate to consider the requisition submitted by the SHO of Police



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Station and pass necessary order either permitting the Police Officer to take up the investigation or reject the requisition. Section 155(2) of Cr. P.C., specifically provides that no Police Officer shall investigate the non-cognizable case without the order of the Magistrate having power to try-such case or commit such case for trial. Therefore, passing an "order" by the Magistrate permitting the Police Officer to investigate the non-cognizable offence is an important factor. The word without the order of the Magistrate appearing in sub-Section (2) of Section 155 of Cr. P.C., makes it clear that the Magistrate has to pass an order' which means supported by reasons. On the other hand, in number of cases, the Jurisdictional Magistrates are writing a word 'permitted' on the requisition submitted by the Police itself which does not satisfy the requirement of Section 155(2) of Cr. P.C., Such an endorsement cannot be equated with the word 'Order'.

19. *Chapter V Rule 1 of Karnataka Criminal Rules of Practice, 1968 also deals with investigation of non-cognizable case. The said provision reads as follows:—*

"INVESTIGATION AND PROSECUTION

**1. Report under Section 154.-(1) On receipt of the report of the Police Officer under Section 154 of the Code, the Magistrate shall make a note on the report of the date and time of the receipt thereof and initial the same. Before initialing, the Magistrate shall also endorse on the report whether the same has been received by the post or muddam.*

2. (1) When a Magistrate directs an investigation of a case under Sections 155(2), 156(3) or 202 of the Code, he shall specify in his order the rank and designation of the Police Officer or the Police Officers by whom the investigation shall be conducted."

20. *Therefore, under (1) the Magistrate shall endorse on the report whether the same has been received by post or muddam. Under Rule 2,*



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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 of 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*



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who has to investigate the case, who shall be other than informant or the complainant.

21. *Coming to the case on hand, the SHO of Kagwad Police Station received a complaint from PSI on 23/9/2019 and SHO submitted a requisition to IV Additional JMFC, Athani, seeking permission to investigate the offence under Section 87 of the K.P. Act which is a non-cognizable offence. It is seen that the Learned Jurisdictional Magistrate has made an endorsement on the requisition which reads as follows:—*

*"Perused materials. Permitted
Sd/-"*

22. ***Therefore, absolutely there is no application of judicious mind by the Learned Magistrate before permitting the Police to investigate the non-cognizable offence much less an order passed by the Learned Magistrate.***

23. ***Under these circumstances, the proceedings initiated against the petitioner in CC No. 3397/2019 pending on the file of the IV Additional Civil Judge and JMFC, Athani, are liable to be quashed so far as the petitioner is concerned. Accordingly, the petition filed under Section 482 of Cr. P.C., is allowed and the said proceedings are hereby quashed as against the petitioner is concerned."***

(Emphasis supplied)

13. Thus, this Court has categorically held requirement of obtaining Magistrate's order under Section 155 (2) before commencing investigation into a non-cognizable offence was mandatory. It also clarified about manner of passing order, by stipulating that on receipt of requisition about non-cognizable offence, Magistrate was required to pass well-reasoned formal 'order' and not mechanical endorsements like 'permitted' or



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'approved', which would not satisfy mandatory requirements which would vitiate investigation and all further proceedings. As a result, impugned order wherein, learned Magistrate merely states to have gone through contents of requisition and other particulars enclosed to record *prima facie* satisfaction to direct registration of complaint and to conduct investigation, would fall foul of ratio in **Vaggeppa Gurulinga Jangaligi's** case (*supra*).

14. Contention of State that such acts constituted only preliminary enquiry cannot be accepted as nature of enquiry did not confine itself to ascertaining commission of cognizable/non-cognizable offence, but transgressed into arena of collection of evidence, which would invariably answer definition of investigation into a non-cognizable offence. Fact that police subsequently approached Magistrate and obtained orders on 11.03.2022 cannot retrospectively validate investigative steps taken in violation of statutory mandate.

15. Reliance on ratio in **Manik Taneja's** case (*supra*) would not be justified as alleged threat therein was expressed '*on social media*'. While threat in question appears to meet



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requirements of Section 506 of IPC and therefore, utility of ratio in **Madhushree Datta's** case (supra) would be debatable.

16. Since it is held above that not only on count of passing order without application of mind but also on ground of violation of mandate of Section 155 (2) of CrPC, ratio in **Haneefa's** case (supra) is attracted and petition would succeed. Consequently, following-

ORDER

Petition is ***allowed***, order dated 11.03.2022 passed by II Addl. Civil Judge & JMFC, Udupi (Annexure-A) in NC no.31/2022, registration of FIR dated 15.03.2022 in Crime no.39/2022 by Manipal Police Station for offences under Section 506 of IPC (Annexure-B) and all proceedings pursuant thereto are quashed.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

GRD
List No.: 1 Sl No.: 52