



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
WRIT PETITION NO. 9768 OF 2026 (GM-POLICE)

BETWEEN:

1. JABBAR HUSSAIN
S/O LATE MOIDEEN BAWA,
AGED ABOUT 36 YEARS,
R/A NISARGA LAYOUT,
OPP ABHARAN SHOWROOM,
KANCHINADKA, NADSAL VILLAGE,
KAUP TALUK, UDUPI DISTRICT - 574 111.

...PETITIONER

(BY SRI. DILRAJ JUDE ROHIT SEQUEIRA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BANGALORE - 560 001.
2. HARIRAM SHANKAR, I.P.S.
DEPUTY SUPERINTENDENT OF POLICE
AND SPECIAL EXECUTIVE MAGISTRATE,
UDUPI DISTRICT, UDUPI - 576 101.
3. THE STATION HOUSE OFFICER,
PADUBIDRI POLICE STATION,
REPRESENTED BY POLICE
SUB INSPECTOR,
PADUBIDRI,

Digitally
signed by
CHAITHRA A
Location:
HIGH COURT
OF
KARNATAKA



UDUPI DISTRICT - 574 111.

...RESPONDENTS

(BY SRI. K P YOGANNA, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 12.03.2026 PASSED BY THE R-2 IN MAG SR-05/2026 PRODUCED AT ANNEXURE-A AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The petitioner, in the captioned writ petition, has called in question the order of externment passed by respondent No.2 under Section 55 of the Karnataka Police Act, 1963 (for short, "the Act"). The challenge is primarily premised on the ground that the impugned order suffers from a fundamental procedural infirmity, inasmuch as respondent No.2 has failed to advert to, much less record a finding on, the jurisdictional facts and ingredients contemplated under clauses (a) and (b) of Section 55 of the Act. It is the specific contention of the petitioner that the order is bereft of reasons, vague in its formulation,



and does not disclose application of mind to the statutory requirements. Placing reliance on the judgment rendered by this Court in ***Mahesh Shetty Thimarodi v. State of Karnataka in W.P 30021/2025***, learned counsel for the petitioner would submit that the very initiation and culmination of proceedings stand vitiated and therefore, the impugned order is liable to be set aside.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Advocate appearing for the respondents. Perused the material on record.

3. Though the learned Additional Government Advocate would stoutly contend that the writ petition is not maintainable in view of the efficacious alternative remedy of appeal available under Section 59 of the Act, this Court is not persuaded to relegate the petitioner to such remedy, having regard to the patent illegality apparent on the face of the record.



4. A careful examination of the impugned order would reveal that respondent No.2 has failed to indicate as to whether the action is founded on the existence of circumstances contemplated under clause (a) or clause (b) of Section 55 of the Act. The absence of such foundational findings strikes at the very root of jurisdiction. The order, being vague, omnibus and devoid of any discernible satisfaction with regard to the statutory preconditions, cannot be sustained in the eye of law.

5. In that view of the matter, this Court is of the considered opinion that the ratio laid down in ***Mahesh Shetty Thimarodi v. State of Karnataka***(supra) squarely applies to the facts of the present case. Therefore, this Court deems it appropriate to extract paragraph No.14 of the said judgment, which reads as under:

"14.1. In view of the findings above, the impugned order not disclosing whether it is passed under Clause (a) or Clause (b) of Section55 of the KP Act, 1963. If it is an order



under Clause (b) of Section 55 of the KPAAct, 1963 the said order not disclosing the reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of offense, or an offence punished under Chapter XII, XVI and XVII of the Indian Penal Code or in the abatement of any such offence, and when in the opinion of such officer or witnesses are not willing to come forward to give evidence in public, I am of the considered opinion that the matter would have to be required to be remitted to the Assistant Commissioner to pass a fresh order clearly and categorically indicating as to under which provision it has been passed and the order to satisfy the requirement of the said provision".

Having bestowed anxious consideration to the law laid down by the Co-ordinate Bench in ***Mahesh Shetty Thimarodi v. State of Karnataka (supra)*** and on perusal of the extracted portion supra, this Court is of the considered view that initiation of proceedings for externment, which undoubtedly entails serious civil consequences and has the effect of curtailing the liberty and movement of a citizen, must strictly conform to the statutory safeguards engrafted under Section 55 of the



Act. The competent authority, before invoking such drastic power, is duty-bound to ascertain, collect and place on record the relevant material so as to satisfy the jurisdictional facts contemplated under the provision.

6. In the present case on hand, a careful examination of the impugned order would reveal that respondent No.2 has proceeded to invoke Section 55 of the Act in a casual and mechanical manner, without indicating the foundational facts or the material on the basis of which such satisfaction is arrived at. The order does not disclose as to whether the action is taken under clause (a) or clause (b) of Section 55 of the Act, nor does it advert to the existence of ingredients necessary to sustain action under either of the said clauses. Such an omission is not a mere irregularity, but goes to the root of the matter, rendering the entire proceedings vitiated.

7. The Co-ordinate Bench, in the judgment referred to supra, has categorically held that failure to



specify the precise provision under which the order is passed and absence of recorded satisfaction with regard to the statutory requirements would render the externment order unsustainable. The ratio laid down therein squarely applies to the facts of the present case. Therefore, this Court is left with no other option but to hold that the impugned proceedings as unsustainable and are liable to be interfered with.

8. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The writ petition is hereby ***allowed***.
- (ii) The impugned order dated 12.03.2026 passed by respondent No.2 in MAG SR-05/2026, as per Annexure-"A", stands hereby quashed.
- (iii) It is, however, made clear that this order shall not come in the way of respondent No.2 re-initiating proceedings against the petitioner, if the circumstances so warrant and if there exists



sufficient material to proceed strictly in accordance with law, either under clause (a) or clause (b) of Section 55 of the Act.

(iv) In the event such proceedings are re-initiated, respondent No.2 shall scrupulously adhere to the mandate of Section 55 of the Act and shall afford a reasonable opportunity of hearing to the petitioner before passing any order.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB
List No.: 1 Sl No.: 60