



CNR: KAHC010549892026

NC: 2026:KHC:44747
CRL.RP No. 1260 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO. 1260 OF 2026

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. SRI. SHARATH KUMAR @ SHARU,
S/O LATE KUMAR,
AGED ABOUT 35 YEARS,
R/A NO.72,
JAYCHAMARAJENDRA WADIYAR NAGAR,
SHESHADRIPURAM,
BANGALORE - 560 020.

...PETITIONER

(BY SRI. RAJA K P., ADVOCATE)

AND:

1. THE SPECIAL EXECUTIVE MAGISTRATE
AND DEPUTY COMMISSIONER OF POLICE
CENTRAL DIVISION,
BANGALORE CITY- 560 001.
2. THE INSPECTOR OF POLICE,
SHESHADRIPURAM POLICE STATION,
BANGALORE CITY - 560 020.

BOTH ARE REPRESENTED
BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI. JAGADEESHA B.N., SPP-1 A/W
SRI. G.S. NAGHARISH, HCGP FOR R1 & 2)

Digitally
signed by
RAKSHA
Location: High
Court of
Karnataka



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THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNSS) PRAYING TO SET ASIDE THE ORDER DATED 13.07.2026 IN CASE NO.DCP (CENTRAL/MAG/GADIPARU/-3/2026, PASSED BY THE 1ST RESPONDENT U/S 55 (A AND B) OF K.P.ACT, THERE BY DIRECTING THE PETITIONER TO EXTERN HIMSELF FROM BANGALORE TO TAMILNADU STATE WITHIN THE LIMITS OF SELAM TOWN POLICE STATION FOR A PERIOD OF 3 MONTHS (13.07.2026 TO 13.10.2026) OR ALTERNATIVELY PASS ANY ORDER OR ORDERS, WHICH THIS HONBLE COURT MAY DEEM FIT TO IMPOSE, IN THE ABOVE CASE.

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

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

Heard learned counsel for the revision petitioner and learned SPP-I a/w Sri. G.S. Nagharish, HCGP for respondent Nos.1 and 2.

2. The petitioner has filed this revision petition under Section 438 r/w 442 BNSS to set-aside the order dated 13.07.2026 in Case No.DCP (Central/MAG/Gadiparu/3/2026 passed by respondent No.1 under Section 55(A and B) of Karnataka Police Act, wherein respondent No.1 directed the



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petitioner to extern himself from Bangalore to Tamilnadu State within the limits of Selam Town for a period of three months from 13.07.2026 to 13.10.2026.

3. In the mean-while, learned SPP-I appearing for respondents relied on the order passed by this Court in CrI.P.No.200012/2023 and connected matters dated 25.07.2025, wherein, the Division Bench of this Court has observed at para Nos.3, 15 and 16 as follows:-

3. The question of availability of legal redressal against an order of externment passed, by recourse to Section 59 of the Karnataka Police Act, would exclude approach to the High Court challenging the validity of order of Externment passed under Section 58 of the Karnataka Police Act by way of a petition under section 482 of Cr.P.C. (Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023); writ petition under Article 226 of the Constitution of India; and whether Criminal Revision Petition under Section 397 of Cr.P.C (Section 438 of BNSS) could be filed.

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15. As the order of externment may impinge upon liberty of an individual, it is always open to challenge the validity of such order by contending violation of Article 21 of the Constitution of India by taking recourse to an appropriate writ under Article 226 of the Constitution. No doubt, Writ Petition would be maintainable, albeit whether the Court would entertain the petition or direct the petitioner to avail of substantive remedy under the statute is a matter within the judicial discretion of the Court before which a Writ Petition is filed.



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C. REMEDY OF REVISION

Godrej Sara Lee Ltd. v. E&TOCAA - 2023 SCC OnLine SC 95 -

4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided



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by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.

16. Insofar as the remedy of Revision under Section 397 of Cr.P.C./ Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023, as the power of Revision is available as regards "proceeding before any inferior Criminal Court" an order passed by an Executive Authority for externment cannot be construed to be proceeding of a Criminal Court.

4. In view of the observations made by the Division Bench of this Court and the fact that the revision petitioner has filed petition under Section 438 r/w 442 of BNSS, insofar as the remedy of revision under Section 397 Cr.P.C./Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023, as the power of Revision is available, as regards "proceeding before any inferior Criminal Court" an order passed by an Executive Authority for



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externment cannot be construed to be proceeding of a Criminal Court and therefore, question of filing the revision petition does not arise.

5. Though learned counsel for the petitioner relied upon the judgment of the Coordinate Bench of this Court in Crl.R.P.No.1018/2018, Crl.R.P.No.100096/2023 and connected matters and W.P.No.294/2026 dated 08.02.2019, 19.07.2023 and 23.02.2026 respectively, the Division Bench of this Court has passed the judgment in Crl.P.No.200012/2023 and Connected matters on 25.07.2025 and hence, the judgment of the co-ordinate bench prevails over the judgments passed by the learned Single Judge, accordingly, the Division Bench decision has to be followed. Thus, there is no merit in the revision petition.

Hence, the revision petition is ***dismissed***. In case, if the petitioner approaches the competent authority, under such circumstances, the competent authority may condone the delay, i.e., the time taken in these proceedings, and dispose of the matter as expeditiously as possible.



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In view of dismissal of the main petition, pending IAs,
if any, does not survive for consideration.

Sd/-
(VENKATESH NAIK T)
JUDGE

MN/List No.: 1 Sl No.: 38