HC-KAR
CNR: KAHC010007962025

NC: 2026:KHC:62074
CRL.P No. 293 of 2025
C/W CRL.P No. 1003 of 2025
CRL.P No. 1081 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 293 OF 2025 (482(Cr.PC) / 528(BNSS)-)

C/W

CRIMINAL PETITION NO. 1003 OF 2025 (482(Cr.PC) / 528(BNSS)-)

CRIMINAL PETITION NO. 1081 OF 2025 (482(Cr.PC) / 528(BNSS)-)

IN CRL.P No. 293/2025
BETWEEN:

AKHIL ACHUTHAN
S/O ACHUTAN,
AGED ABOUT 32 YEARS,
R/AT H NO.204,
VASUDHA COLONY,
ALTO SANTA CRUZ,
BAMBOLIM TISWADI,
NORTH GOA-403202

...PETITIONER

(BY SRI. KARAN GUPTA ., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   THROUGH THE CHITRADURGA RURAL PS,
   BASAVESHWAR NAGAR,
   CHITRADURGA, KARNATAKA-577501
   REPRESENTED BY THE PUBLIC PROSECUTOR.

2. DILEEP
   S/O CHANDRAPPA T,

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AGED ABOUT 30 YEARS,
MALLANAKATTE VILLAGE
MEDEHALLI POST
CHITRADURGA TALUK
CHITRADURGA, KARNATAKA,

…RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE FIR DATED 09.12.2024 IN CR. NO.0467 OF 2024 REGISTERED WITH CHITRADURGA RURAL PS, KARNATAKA FOR AN OFFENCE U/S. 318(3) OF THE BNS 2023 PENDING ON THE FILE OF THE 1ST ADDL. CIVIL JUDGE (Jr.Dn) AND JMFC COURT, CHITRADURGA DISTRICT, CHITRADURGA, AS AGAINST THE PETITIONER (PRODUCED AS ANNEXURE A) AND ETC.

IN CRL.P NO. 1003/2025
BETWEEN:

DIGAMBAR NAITHANI
S/O MR. NAITHANI SHIVCHARAN
AGED ABOUT 25 YEARS
RESIDING H NO. 189/2,
GUJRABHAT, SANTAN TALAULIM,
CURCA, GOA, VELHA, TISWADI,
NORTH GOA 403108

...PETITIONER

(BY SRI. KARAN GUPTA., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   THROUGH THE CHITRADURGA RURAL PS,
   BASAVESHWAR NAGAR,
   CHITRADURGA, KARNATAKA 577501
   REPRESENTED BY THE PUBLIC PROSECUTOR
   HIGH COURT BUILDING,
   BANGALORE-560001.

2. DILEEP
   S/O CHANDRAPPA.T
   AGED ABOUT 30 YEARS

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MALLANAKATTE VILLAGE,
MEDEHALLI POST,
CHITRADURGA TALUK
KARNATAKA

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

IN CRL.P NO. 1081/2025
BETWEEN:

HIMADRI NANDAN MOHAPATRA
S/O RUDRA SHANKAR MOHAPATRA
AGED ABOUT 35 YEARS
RESIDING FLAT 103,
SUMANTHA SAI SMILEHOME BANDAR LAYOUT,
NIZAMPET, MEDCHAL - 500 090
TELANGANA

...PETITIONER

(BY SRI. KARAN GUPTA., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH THE CHITRADURGA RURAL PS,
BASAVESHWAR NAGAR
CHITRADURGA
KARNATAKA - 577501
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT BUILDING-560001

2. DILEEP
S/O CHANDRAPPA T
AGED ABOUT 30 YEARS
MALLANAKATTE VILLAGE,
MEDEHALLI POST
CHITRADURGA TALUK
KARNATAKA-577502

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

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THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE FIR DATED 09.12.2024 IN CR.NO.0467/2024 REGISTERED WITH CHITRADURGA RURAL PS,KARNATAKA FOR AN OFFENCE U/S 318(3) OF THE BNS, 2023 PENDING ON THE FILE OF THE 1ST ADDL. CIVIL JUDGE (JR.DN) AND JMFC COURT, CHITRADURGA DISTRICT CHITRADURGA, AS AGAINST THE PETITIONER (PRODUCED AS ANNEXURE-A) AND ETC.

THESE CRIMINAL PETITIONS, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. Sri.Karan Gupta., learned counsel submits that he would be appearing for the petitioner in Crl.P.No.293/2025 and he has filed his Vakalathnamma for petitioner in Crl.P.No.293/2025. Hence, registry is directed to print his name as such and delete the name of Sri.Aditya Chatterjee., as that appearing for the petitioner.

2. In all the above matters the petitioner is before this Court seeking for the following reliefs;

    1. *Quash the fir dated 09.12.2024 in Cr. No.0467 of 2024 registered with Chitradurga Rural PS, Karnataka for an offence u/s. 318(3) of the BNS 2023 pending on the file of the 1st Addl. Civil Judge (Jr.Dn) and JMFC court, Chitradurga District, Chitradurga, as against the petitioner (produced as Annexure A).*

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2. *Quash the complaint dated 09.12.2024 filed by the respondent no.2 before the sub-inspector of police, Rural Police Station, Chitraudrga on which basis the above fir was registered, as against the petitioner (produced as Annexure B).*

3. The contention of learned counsel for the petitioner is that on a complaint filed by respondent No.2 on 09.12.2024, FIR in Crime No 467 of 2024 came to be registered on the same date for offences under Section 318(3) of the Bharatiya Nyaya Sanhita, 2023 (BNS). His submission is that an offence under Section 318(3) being a non-cognizable offence, a FIR could not have been registered by the jurisdictional police without the express a written permission of the jurisdictional Magistrate.

4. In the present matter, he submits that after the registration of the complaint at 19.30 hours, the same has been forwarded to the Magistrate at 20.05 hours. Therefore, he submits that there is no prior permission which has been obtained by the jurisdictional police before registration of the complaint.

5. In this regard he relies upon the decision of the Co-ordinated Bench of this Court in ***Asif and Anr & Anr., vs. The State of Karnataka in Crl.P.No.201594 of 2024***, more particularly para 8

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and 9 thereof, which are reproduced hereunder for easy reference;

> ***8.*** *Later on, the informant should be referred to the Magistrate for obtaining necessary permission. It is also incumbent on the SHO to forward the daily diary report of all such cases fortnightly to the Magistrate.*
>
> ***9.*** *Sub-Section 2 of Section 174 of BNSS, 2023 creates an embargo on the police officer not to investigate such matters, where non-cognizable offence is made out without an order by the jurisdictional Magistrate, who has got power to try such offence or commit the case for trial.*

6. Learned counsel submits that the aforesaid decision specifically interprets Section 174 of the BNSS, which came into force on 01.07.2024, and therefore squarely applies to the present case, wherein the complaint was lodged on 09.12.2024. The procedure prescribed under the new enactment is mandatory and has to be followed before the police can proceed to investigate a non-cognizable offence.

7. He further submits that Section 174 of the BNSS substantially retains the procedure contemplated under Section 155 of the Cr.P.C. In the case of a non-cognizable offence, the officer in charge of the police station is required to enter the substance of the information in the prescribed book, refer the informant to the Magistrate and forward the daily

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diary report of such cases to the Magistrate fortnightly. More importantly, under Section 174(2), no police officer can investigate such a case without an order of the jurisdictional Magistrate having the power to try the offence or commit the case for trial.

8. Learned counsel contends that none of these statutory requirements has been complied with in the present case. Instead of entering the information as a non-cognizable case and obtaining the Magistrate's order before commencing investigation, the jurisdictional police proceeded directly to register Crime No.467 of 2024. The subsequent forwarding of the complaint to the Magistrate does not cure the initial illegality. The registration of the crime and the consequential proceedings are, therefore, contrary to Section 174 of the BNSS and liable to be quashed.

9. On the aforesaid grounds, learned counsel submits that the registration of Crime No.467 of 2024, without first obtaining the order of the jurisdictional Magistrate, is contrary to the procedure prescribed by law and amounts to an abuse of the process of Court. He accordingly seeks interference by this Court.

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10. Heard Sri.Karan Gupta., learned counsel for petitioner Smt. Rashmi Patel., Learned HCGP for Respondent No.1. Perused papers.

11. The records indicate that the complaint was received by the jurisdictional police on 09.12.2024 at about 7.30 p.m. and Crime No.467 of 2024 came to be registered on the same date. The complaint was thereafter forwarded to the jurisdictional Magistrate at about 8.05 p.m. It is not in dispute that the Magistrate merely received the complaint and did not pass any order authorising the police to investigate the matter.

12. The First Schedule to the BNSS classifies the offence under Section 318(3) of the BNS as non-cognizable and bailable. The FIR in the present case has been registered only for the said offence. No other cognizable offence has been invoked or disclosed in the FIR. Consequently, the exception contemplated under Section 174(4) of the BNSS, which applies where a case relates to two or more offences, at least one of which is cognizable, does not arise for consideration.

13. Section 174(1) of the BNSS requires the officer in charge of a police station, upon receiving information

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concerning a non-cognizable offence, to enter the substance of such information in the prescribed book, refer the informant to the Magistrate and forward the daily diary report of such cases to the Magistrate fortnightly.

14. More importantly, Section 174(2) of the BNSS expressly provides that no police officer shall investigate a non-cognizable case without an order of the Magistrate having the power to try such case or commit the case for trial. The requirement of obtaining an order from the jurisdictional Magistrate is, therefore, mandatory. The receipt of the complaint by the Magistrate cannot be treated as an order authorising investigation. There must be a specific order permitting the police to investigate the non-cognizable case.

15. A Co-ordinate Bench of this Court, in ***Asif and Another v. State of Karnataka,*** Crl.P. No.201594 of 2024, decided on 01.07.2025, has considered the procedure required to be followed under Section 174 of the BNSS. The Co-ordinate Bench, after examining the provision, held that the police are required to refer the informant to the Magistrate for obtaining permission and that the jurisdictional Magistrate

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must consider the complaint and pass an order in writing permitting investigation. It was further held that only upon receipt of such an order can the police register a case and proceed with the investigation in accordance with Section 174(3) of the BNSS.

16. In the present case, the sequence of events is contrary to the procedure prescribed under Section 174 of the BNSS. The police registered Crime No.467 of 2024 at 7.30 p.m. and forwarded the complaint to the Magistrate only thereafter, at 8.05 p.m. The Magistrate did not pass any order authorising investigation. Thus, there was neither prior permission nor any subsequent order of the jurisdictional Magistrate permitting the police to investigate the non-cognizable offence.

17. Merely forwarding the complaint to the Magistrate and obtaining an acknowledgment of its receipt does not amount to compliance with Section 174(2) of the BNSS. The statutory requirement is not one of mere intimation to the Magistrate, but of obtaining an order authorising investigation. In the absence of such an order, the police could not have proceeded in the manner adopted in the present case.

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18. In view of the above, the registration of Crime No.467 of 2024 without following the procedure prescribed under Section 174 of the BNSS is not sustainable in law. The continuation of the proceedings pursuant to such registration would amount to permitting the police to bypass an express statutory requirement governing investigation of non-cognizable offences.

19. Accordingly, the Criminal Petition is allowed. FIR in Crime No.467 of 2024 registered by the jurisdictional police for the offence punishable under Section 318(3) of the BNS and all consequential proceedings arising therefrom are required to be quashed.

20. It is made clear that this order shall not preclude Respondent No.2 from approaching the jurisdictional Magistrate in accordance with Section 174 of the BNSS and seeking an order authorising investigation. If such an order is passed, the police shall be at liberty to proceed in accordance with law. This Court has not expressed any opinion on the merits of the allegations made in the complaint.

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21. In that view of the matter, this Court passes the following;

ORDER

i. All the above criminal petitions are ***allowed***.

ii. An FIR dated 09.12.2024 in Cr.No.467 of 2024 registered by the Chitradurga Rural PS pending on the file of the I Addl. Civil Judge (Jr.Dn) and JMFC Court, Chitradurga District, Chitradurga at Annexure-A and the complaint dated 09.12.2024 filed by the respondent No.2 before the sub-inspector of police, Rural Police Station, Chitraudrga on which basis the above FIR was registered at Annexure B insofar as the petitioner is concerned are quashed, with liberty being reserved as indicated in the body of the Order.

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(SURAJ GOVINDARAJ)
JUDGE

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