HC-KAR

NC: 2026:KHC:61920
CRL.P No. 1383 of 2025

CNR: KAHC010059822025

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. 1383 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

1. SRI. R VIJAY BHASKAR
   AGED ABOUT 48 YEARS
   S/O LATE J B RANGASWAMY

2. SMT. NETHRAVATHI K N
   AGED ABOUT 45 YEARS
   W/O R VIJAY BHASKAR

   RESIDING AT NO. 1503,
   4TH C MAIN, 11TH CROSS,
   MAHALAKSHMIPURAM
   WEST OF CHORD ROAD,
   2ND STAGE, BENGALURU-560086

...PETITIONERS

(BY SRI. HANUMESH H N.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY KAMAKSHIPALYA POLICE STATION
   REPRESENTED BY
   STATE PUBLIC PROSECUTOR,
   HIGH COURT BUILDING,
   BANGALORE 560 001

2. SRI. LAXMAN VERMA,
   S/O LATE S DORESWAMY,
   RESDING AT NO.63/4 B MAIN ROAD

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OPPOSITE VEERESH CONVENTION HALL,
BENGALURU-560073

…RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP, FOR R1;
SRI. B.S. JEEVAN KUMAR., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO CALL FOR THE RELEVANT RECORDS AND SET ASIDE THE ORDER DATED 20.11.2024 OF THE IV ADDL. CJM COURT, BANGALORE THEREBY REFERRING PRIVATE COMPLAINT IN PCR NO.12868/2024 FOR INVESTIGATION AND CONSEQUENT REGISTRATION OF FIR NO.527/2024 DATED 07.12.2024 ON THE FILE OF KAMAKSHIPLAYA P.S. FOR THE OFFENCE P/US/ 316, 318, 319 OF BNS OF THE IPC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioners are before this Court seeking for the following reliefs;

   1. *Call for the relevant records and set aside the order dated 20.11.2024 of the IV Addl. CJM Court, Bangalore thereby referring private complaint in PCR No.12868/2024 for investigation and consequent registration of FIR No.527/2024 dated 07.12.2024 on the file of Kamakshiplaya P.S. for the offence p/us/ 316, 318, 319 of BNS of the IPC.*

   2. *Grant such other relief or reliefs as this Hon'ble Court deems fit in the facts and circumstances of the case, in the interest of justice and equity.*

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2. The grievance of the petitioners is that the learned Magistrate has referred the private complaint for investigation under sub-section (3) of Section 175 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'the BNSS'), without affording an opportunity to the jurisdictional police officer to place before the Court the reasons for not registering an FIR on the complaint initially lodged before the police.

3. Sri Hanumesh H N, learned counsel for the petitioners, submits that the issue is covered by the decision of this Court dated 27.10.2026 in ***Manjunath & Others v. State by Kengeri Police Station & Another***, in Crl.P. No.4866 of 2025. He submits that this Court, while considering the scope of Section 175(3) of the BNSS, has held that the Magistrate is required to hear the submission of the jurisdictional police officer as to why the FIR was not registered on the complaint initially lodged before the police. Since no such opportunity was afforded in the present case, the order of reference is contrary to the mandatory requirement of law.

4. In **Manjunath's case**, this Court considered the scope of Section 175(3) of the BNSS in the light of

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the decision of the Hon'ble Supreme Court in ***Om Prakash Ambadkar v. State of Maharashtra,*** 2025 SCC OnLine SC 238. This Court held that, where a private complaint is presented before the Magistrate on account of the jurisdictional police having failed to act upon the complaint, it is mandatory for the Magistrate to hear the submission of the jurisdictional police officer explaining why the FIR was not registered and thereafter apply judicial mind to the question whether the complaint requires to be referred for investigation.

5. Section 175(3) of the BNSS requires the Magistrate, before ordering an investigation, to consider the application supported by an affidavit under Section 173(4), make such inquiry as the Magistrate considers necessary and consider the submission made in that regard by the police officer. These are safeguards introduced by the legislature to ensure that the power to direct an investigation is exercised after due application of mind and after considering the circumstances surrounding the non-registration of the FIR.

6. The Hon'ble Supreme Court, in ***Om Prakash Ambadkar's*** case, has explained the distinction

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between Section 156(3) of the Code of Criminal Procedure, 1973 and Section 175(3) of the BNSS. One of the significant changes introduced by the latter provision is the requirement that the Magistrate consider the submission of the officer in charge of the police station regarding the refusal to register the FIR before directing an investigation. The requirement is not an empty formality but is intended to ensure that the Magistrate considers the version of the police officer along with the complaint and the supporting material before passing an order.

7. In ***Manjunath's case***, this Court applied the above principles and held that the jurisdictional police officer must be afforded an opportunity to place his submission before the Magistrate and that the Magistrate must consider the same before directing investigation under Section 175(3) of the BNSS. The order of reference passed without following this procedure was set aside and the matter was remitted to the Magistrate for fresh consideration.

8. In the present case, the order dated 20.11.2024 passed in PCR No.12868 of 2024 does not indicate that the jurisdictional police officer was afforded an opportunity to submit the reasons for non-

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registration of the FIR or that any such submission was considered by the learned Magistrate before referring the complaint for investigation. The order of reference, therefore, does not reflect compliance with the requirement under Section 175(3) of the BNSS.

9. In view of the law laid down by the Hon'ble Supreme Court in ***Om Prakash Ambadkar's*** case and the decision of this Court in ***Manjunath's*** case, the order of reference cannot be sustained. The consequential registration of FIR No.527 of 2024, pursuant to the said order, is also liable to be set aside. The appropriate course would be to remit the private complaint to the learned Magistrate for fresh consideration in accordance with Section 175(3) of the BNSS, after affording the jurisdictional police officer an opportunity to place his submission and considering the same along with the complaint and the supporting material.

10. It is made clear that this Court has not examined the merits of the allegations made in the private complaint. The learned Magistrate shall consider the matter afresh, independently and in accordance with law, without being influenced by any observations made in this order.

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11. In the above circumstances this court passes the following:

ORDER

i. The criminal petition is ***allowed*****.**

ii. The order dated 20.11.2024 passed by the learned IV Additional Chief Metropolitan Magistrate, Bengaluru, in PCR No.12868 of 2024, referring the complaint for investigation under Section 175(3) of the BNSS, is set aside.

iii. Consequently, FIR No.527 of 2024 dated 07.12.2024 registered by Kamakshipalya Police Station and the proceedings arising therefrom are quashed.

iv. PCR No.12868 of 2024 is restored to the file of the learned Magistrate. The matter is remitted for fresh consideration in accordance with Section 175(3) of the BNSS and the principles laid down in ***Om Prakash Ambadkar and Manjunath***, after affording the jurisdictional police officer an opportunity to place his submission before the Court.

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v. All contentions on the merits of the private complaint are kept open.

vi. Both the petitioner and the respondent shall appear before the said Court without requirement of any notice on 30.11.2026.

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(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 10