HC-KAR

NC: 2026:KHC:12921
WP No. 4477 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 4477 OF 2026 (GM-RES)

BETWEEN:

1. SANTHOSHA
   AGED ABOUT 47 YEARS.
   S/O LATE BACHA MOGAVEERA.
   R/ATCHANDU NILAYA. HANGLOOR VILLAGE.
   KUNDAPURA TALUK.
   UDUPI DISTRICT 576222

2. GANESHA
   AGED ABOUT 37 YEARS.
   S/O LATE VITTAL POOJARY.
   R/A BACHI MANE. ARALAGUDDE HALEALIVE,
   KOTESHWARA VILLAGE, KUNDAPURA TALUK.
   UDUPI DISTRICT 576222

Digitally signed by SANJEEVINI J KARISHETTY
Location: High Court of Karnataka

3. UDAYA ACHARI
   AGED ABOUT 36 YEARS.
   S/O LATE APPU.
   R/A KALIKAMBA NILAYA,
   KUPPARU SHANKARNAYANA VILLAGE,
   UDUPI DISTRICT-567227

4. JAYAPRAKASHA
   AGED ABOUT 54 YEARS.
   S/O GOVINDA SHERIGARA,
   R/AT MAKKIMANE, ULLURU MUDLUKATTE,
   KANADAWARA VILLAGE, KUNDAPURA TALUK,

UDUPI DISTRICT-576217

5. RAMANNA SHETTY
AGED ABOUT 60 YEARS,
S/O THIMAIAH SHETTY,
R/A SAHANA ESTATE, ANKADAKATTE,
KOTESHWARA VILLAGE,
KUNDAPURA TALUK,
UDUPI DISTRICT-576222.

…PETITIONERS

(BY SRI. SOHAN B. SHETTY., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU 560001

2. HARISH R
AGED ABOUT 36 YEARS,
POLICE OFFICER, PSI,
(LAW AND ORDER),
KUNDAPURA POLICE STATION
UDUPI DISTRICT - 576201

…RESPONDENTS

(BY SRI. B.N.JAGADEESHA, ADDL. SPP FOR R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE CHARGE SHEET DATED 14.03.2020 IN CRIME NO.0034/2020 FILED BY THE RESPONDENT NO.2 POLICE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 78, 79 AND 80 OF KARNATAKA

POLICE ACT, 1963, AGAINST THE PETITIONERS HEREIN (ANNEXURE-A)., AND ETC.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioners are before this court seeking the following prayer:

(a) Quash the charge sheet dated 14.03.2020 in Crime NO.0034/2020 filed by the respondent No.2 police for the offences punishable under Sections 78, 79 & 80 of Karnataka Police Act, 1963, against the petitioners herein (Annexure-A).

(b) Quash the entire writ proceedings initiated against the petitioners in Crime No.0034/2020 pending on the file of Addl. Civil Judge and JMFC, at Kundapura for the offences punishable under Sections 78, 79 & 80 of the Karnataka Police Act, 1963, against the petitioners herein (Annexure-B).

(c) Pass any such other or further order/s that this Hon'ble Court may deem fit under the facts and circumstances of the above case in the interest of justice and equity.

2. Learned counsel appearing for the petitioner would submit that the issue in the *lis* stands covered by the judgment rendered by a co-ordinate bench of this Court in Crl.P.No.26024/2025 disposed on 02.09.2025, wherein it has held as follows:

> *The captioned petition is filed by the petitioners seeking quashing of the proceedings pending in C.C.No.1234/2020 for the offences punishable under Sections 79 and 80 of the Karnataka Police Act, 1963.*
>
> *2. The gist of the prosecution's allegation is that the petitioners were found engaged in playing the game of andar-bahar, pursuant to which a criminal case came to be registered. The Investigating Officer, being of the view that the petitioners had committed an offence, proceeded to lay a charge sheet in C.C.No.1234/2020.*
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> *3. The issue as to whether a citizen found playing a game of chance, namely andar-bahar, constitutes an offence has already been considered and decided by a Coordinate Bench in W.P.No.2227/2024. It is apposite for this Court to reproduce paragraph 3 of the said judgment, which in turn refers to an earlier judgment rendered in Crl.P.No.100877/2014, and reads as follows:*
>
> > *"The learned counsel for the petitioners submits that the issue in the case at hand stands covered by the judgment rendered by the co-ordinate bench of this Court in Crl.P.No.100877/2014, disposed on 13.06.2014, which read as follows:*
> >
> > > *5. On analysing the above said provision of law, this Court has rendered a decision reported in 1971(2) Mys. L.J. 187 in the case of Chickarangappa & Others Vs. State of Mysore and another decision reported in 1977 (1) K.L.J. 274 in the case of Eranna*

Vs. State of Karnataka, which decisions declare that, "playing 'Andar Bahar' is a game of skill and not mere a game of chance and therefore, the offence punishable under Section 79 and 80 of the Act are not attracted".

6. In the ruling reported in 1977 (1) K.L.J. 274 (supra), this Court has categorically held that, game of 'Andar Bahar' is not a game of chance. The facts are also little bit relevant as quoted in the said case. At paragraph 7 of the said judgment, it is stated that;

> *"In this view of the matter, the essential ingredient of the offence was not proved. It could not be established that the petitioner accused were playing a game of chance and one does not know how the game 'Andar Bahar' is actually played with the assistance of cards. Even if any betting was resorted to and even if any pledge of moveables was made in support of that betting, that by itself did not convert a game of a skill into a game of chance. At any rate it was not categorically proved that 'Andar Bahar' is a game of chance and that these accused were playing that game. They were not covered under the definition of gaming in a house. Since the institution where the accused were found playing the game with cards is a club, it is not unusual that cards are played in a club, and it may even be that some betting was also being done. These facts by themselves never proved that a game of chance was being played or that no skill was involved in that game so that it could be considered to be a mere game of chance. It is manifest that a game of skill would not be held to be gambling for the purpose of the Act. In this view of the matter, no offence under Sections 79 and 80 of the Karnataka Police Act, 1963 was made out against the petitioners. Hence the conviction of sentence was set aside".*
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> *(Emphasis supplied)*

In the light of the afore-extracted judgment rendered by the co-ordinate Bench of this Court and in the facts obtaining in the case at hand, which covers the issue on all its fours, I deem it appropriate to quash the proceedings, qua the petitioners."

4. In view of the categorical findings recorded by a Co-ordinate Bench of this Court, it has been unequivocally held that participation in a game of pure chance, such as andar-bahar, cannot be construed as constituting an offence under any penal provision, much less under Sections 79 and 80 of the Karnataka Police Act, 1963. Once such an authoritative pronouncement has clarified the legal position, the very substratum of the prosecution in C.C.No.1234/2020 stands completely eroded. The allegations, even if accepted on their face value, do not disclose the commission of any cognizable or noncognizable offence within the ambit of the statutory provisions invoked. Consequently, the continuance of the criminal proceedings against the petitioners would be wholly redundant and bereft of any legal foundation.

5. Permitting such proceedings to drag on, despite the clear enunciation of law by this Court, would serve no fruitful purpose and would only result in prolonging unnecessary harassment to the petitioners. It would further amount to subjecting them to avoidable criminal trial when the act complained of does not even fall within the four corners of penal law. Such continuance, in the considered opinion of this Court, would not only constitute an abuse of the process of law but also lead to serious miscarriage of justice.

6. Having regard to the binding precedent laid down by the Co-ordinate Bench, and keeping in view that the basic ingredients constituting the alleged offences are completely absent in the present case, the possibility of securing a conviction is not only remote but wholly illusory. In these circumstances, the present case eminently warrants the exercise of this Court's inherent jurisdiction under Section 482 of the Code of Criminal Procedure, 1973, to secure the ends of justice. Interference at this stage is necessary to prevent misuse of judicial process and to ensure that the petitioners are not compelled to undergo the rigours of a fruitless trial.

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

ORDER

(i) The petition is hereby allowed;

(ii) The entire proceedings in C.C.No.1234/2020, pending on the file of the learned Additional Civil Judge and JMFC, Kundapura, for the offences punishable under Sections 79 and 80 of the Karnataka Police Act, 1963, in so far as they relate to the petitioners herein, are quashed.

3. In the light of the issue standing covered by judgment rendered by this Court *supra*, the petition stands disposed on the same terms.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SS
List No.: 1 Sl No.: 241