IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 2310 OF 2026

BETWEEN:

1. SHIVARAJ,
   S/O DEVARATTEPPA,
   AGE 47 YEARS,
   OCC: BUSINESS,
   R/O JARIKATTE VILLAGE,
   DAVANAGERE TALUK AND DISTRICT - 577 002.

2. VINAYAKA N.R.,
   S/O REVANASIDDAPPA,
   AGE 31 YEARS,
   OCC: AGRICULTURE,
   R/O MITLAKATTE VILLAGE,
   HARIHAR TALUK,
   DAVANAGERE DISTRICT - 577 601.

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Location: High Court of Karnataka

3. GANESH N.C.,
   S/O CHANNABASAPPA,
   AGE 28 YEARS,
   OCC: DRIVER,
   R/O PUTTAMMA BADAVANE,
   JARIKATTE VILLAGE,
   DAVANAGERE TALUK
   AND DISTRICT - 577 002.

4. SANTHOSHA M.H.,
   S/O HALAYYA,

AGE 27 YEARS,
OCC: AGRICULTURE,
R/O MITLAKATTE VILLAGE,
HARIHAR TALUK,
DAVANAGERE DISTRICT - 577 601.

5. RAVICHANDRA D.L.,
S/O LOKAPPA DOGGALLI,
AGE 40 YEARS,
OCC: AGRICULTURE,
R/O JARIKATTE VILLAGE,
DAVANAGERE TALUK AND DISTRICT - 577 002.

…PETITIONERS

(BY SRI. M.R. HIREMATHAD, ADVOCATE)

AND:

STATE BY DAVANAGERE EXTENSION
POLICE STATION,
DAVANAGERE DISTRICT,
REPRESENTED BY S.P.P.,
HIGH COURT BUILDING,
BENGALURU - 560 004.

…RESPONDENT

(BY SRI.CHANNAPPA ERAPPA, HCGP)

THIS CRL.P. IS FILED U/S 482 OF CR.P.C., (FILED U/S 528 BNNS) PRAYING TO QUASH THE FIR AND COMPLAINT AND THE CHARGE SHEET AGAINST THE PETITIONERS / ACCUSED NO.1 TO 5 ON THE FILE OF THE II ADDL.CIVIL JUDGE AND J.M.F.C AT DAVANAGERE IN CR.NO.142/2025 OF DAVANAGERE P.S. REGISTERED FOR THE OFFENCE P/U/S 79, 80 OF KARNATAKA POLICE ACT 1963.

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

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioners are before this Court calling in question the registration of a crime in Crime No.142/2025 for the offences punishable under Sections 79 and 80 of the Karnataka Police Act, 1963.

2. Heard Sri. M.R. Hiremathad, learned counsel appearing for the petitioners, Sri. Channappa Erappa, learned HCGP appearing for the respondent and have perused the material on record.

3. The learned counsel for the petitioners submits that the issue in the case at hand stands covered by the judgments rendered by the Co-ordinate Benches 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 common 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".

and in ***criminal revision petition No.100031/2014, disposed on 03.03.2015,*** it is held as follows:

"This revision petition is filed under Section 397 read with Section 401 of Cr.P.C. by the State, aggrieved by the order passed by the learned Magistrate in releasing the interim custody of the cash amount in favour of accused No.2/ respondent No.2.

2. Succinctly stated, the P.S.I. of Honnavar Police Station charge sheeted the respondents for the offence punishable under Section 87 of K.P. Act. The accused were on bail. During the raid the Investigating Officer had seized cash of Rs.34,468/- , which is alleged to be the gaming money. Respondent No.2 moved an application under Section 457 of Cr.P.C. for release of the said amount. The application was contested by the prosecution. The court below allowed the application and released the interim custody of cash amount in favour of the applicant / respondent No.2 on executing an indemnity bond for Rs.50,000/- with one surety for the likesum. However, care was taken by the court below by directing accused No.1 to assist the C.M.O. of the Court to take the photographs of the currency notes at his cost.

3. Learned counsel for the petitioner – State submits that the trial Court has lost sight of the fact that the amount was seized while the accused were indulged in playing Andar Bahar. In the event prosecution successfully proves its case, said money is liable to be confiscated to the State Government. The court had acted on the fabricated documents produced by the accused No.2 projecting that the money belong to Srikumar Roadlines, under whom he was employed. Though

the prosecution had disputed the said document without probing about the veracity of the document, the trial Court has hurriedly released the interim custody of the cash amount. In fact the said cash amount is required to be marked in evidence during the trial. The currency notes are not perishable in nature and there was no dire necessity to release the interim custody of the cash amount in favour of second applicant. The accused No.5 has pleaded guilty and was imposed fine, that strengthens the case of prosecution. In the judgment of this Court reported in 1993 CRL.L.J. 3109 in the case of T. Narayanaswamy vs. State and Others, it has been held that release of money seized for the interim custody is bad in law. Hence, the impugned order is liable to be set aside.

4. In reply, Sri Anoop G. Deshpande, learned counsel for R1 to R4 and R6 to R7 submits that the impugned order being in the nature of interlocutory order is not amenable to the revision jurisdiction. Hence, the very petition itself is not maintainable. In fact, the money seized was not the gaming money, but it belongs to his employer Srikumar Roadlines and the court below having satisfied about his contention was pleased to release the interim custody to his possession. However, the interest of State is protected by directing him to execute the indemnity bond for Rs.50,000/- with one surety for the likesum. Even the interest of the prosecution about the identification of the currency notes is also taken care by directing him to assist the C.M.O. of the Court at his cost in taking photographs of the currency notes.

5. Respondent No.5 is served and not represented.

6. As regards the first contention about the maintainability of the revision petition, by a catena of judicial pronouncements of this Court and other High Courts, it is held that the release of interim custody of the seized property is the nature of adjudication of the rights of the parties in reference to the said

property. The said order is amenable for revision jurisdiction under Section 397 of Cr.P.C. Hence, there is no merit in the contention that this petition is not maintainable.

7. As regards the merit of the impugned order is concerned, the court below being convinced with a certificate produced by the second applicant issued by his employer Srikumar Roadlines and also daily enquiry report dated 14.11.2012 has inferred that he is an employee of the said Roadlines. Keeping open the question of the ownership of the seized property / cash amount in question the court below has ordered interim custody by taking the photographs of currency notes and also by calling upon the applicant to execute the indemnity bond of Rs.50,000/- with one surety for the likesum.

8. Under the circumstances, I hold that the impugned has not prejudiced the case of the State and it is not illegal. The grounds urged by the State lacks merits and does not call for interference of this Court. Accordingly, petition is rejected".

In the light of the afore-extracted judgments rendered by the Co-ordinate Benches 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* these petitioners.

4. For the reasons aforementioned, the following:

ORDER

(i) The Criminal Petition is allowed.

(ii) The proceedings in Crime No.142/2025 registered by Davanagere Police Station stand quashed, *qua* these petitioners.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SJK
List No.: 1 Sl No.: 68