HC-KAR

NC: 2026:KHC:13304
CRL.P No. 17052 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

CRIMINAL PETITION NO.17052 OF 2025 (482(Cr.PC) / 528(BNSS)

BETWEEN:

HARISH @ HARISH KUMAR B.V.
S/O VENAKATAGIRIGOWDA
AGED ABOUT 42 YEARS
R/AT NO.104, K. TOWER
WOOD ROSE BLOCK,
ETA GARDEN APARTMENT,
NO.9 K.P. AGRAHARA, MAGADI ROAD,
BENGALURU -560 023

…PETITIONER

(BY SRI. ANANDA V., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH HANUMANTHANAGARA
POLICE STATION
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX,
BANGALORE -560 001.

2. MANOJ KUMAR D.S
AGED ABOUT 31 YEARS
POLICE OFFICER
HANUMANTHANAGARA POLICE STATION,
ASHOK NAGAR, BSK 1ST STAGE,
BENGALURU-560 050.

…RESPONDENTS

(BY SRI. RAJAT SUBRAMANYAM, HCGP)

THIS CRL.P. IS FILED U/S.482 (FILED U/S.528 BNSS) CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.3865/2023 (ARISING OUT OF CRIME NO.306/2022) ON THE FILE OF THE XXXVII ADDL CJM, BENGALURU CITY FOR THE ALLEGED OFFENCE P/U/S 78(1)(a)(iii) OF KARNATAKA POLICE ACT AND SEC.66 OF INFORMATION TECHNOLOGY ACT INITIATED BY THE RESPONDENT NO.1 POLICE.

Digitally signed by MADHURI S
Location: High Court of Karnataka

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks quashing of the proceedings in C.C.No.3865/2023 on the file of the XXXVII Addl. Chief Judicial Magistrate, Bengaluru City, arising out of Crime No.306/2022 registered by the 1st respondent - Police for offences punishable under Sections 78(i)(a)(iii) of Karnataka Police Act and Section 66 of the Information Technology Act and for other reliefs.

2. Heard learned counsel for the petitioner and learned HCGP for the respondents and perused the material on record.

3. A perusal of the material on record will indicate that the petitioner is arraigned as accused No.4 in Crime No.306/2022 registered by the 1st respondent - Police, pursuant to the complaint dated 08.11.2022 filed by the 2nd respondent for the aforesaid offences. In the complaint and FIR, one Suraj Singh H., Padmanabha N. and Madhukumar L., having been arraigned as accused Nos.1, 2 and 3, respectively, approached this Court in

Crl.P.No.9941/2025, which was allowed vide order dated 16.07.2025 and proceedings against accused Nos.1, 2 and 3 were quashed by this Court as hereunder:-

> *"In this petition, the petitioners seek the following reliefs:*
>
> > *"a. Call for records in C.C.No.3865/2023 on the file of Hon'ble XXXVII Addl. Chief Metropolitan Magistrate, Bangalore, for the offences punishable under Section 66 of IT Act, 2008 and 78(1)(a)(iii) of the Karnataka Police Act, 1963, initiated by the Respondent No.1/Henaumanthnagar PS.*
> >
> > *b. Quash the entire proceedings in CC No.3865/2023 on the file of Hon'ble XXXVII Addl Chief Metropolitan magistrate, Bangalore, for the offences punishable under Section 66 of IT Act, 2008 and 78(1)(a)(iii) of the Karnataka Police Act, 1963, initiated by the Respondent No.1/Hanumanthanagar PS.*
> >
> > *c. Pass such other relief/reliefs as this Hon'ble Court deems fit in the facts and circumstances of the present case in the interest of justice and equity."*
>
> *2. Heard learned counsel for the petitioners and learned HCGP for respondent No.1 and perused the material on record.*
>
> *3. A perusal of the material on record will indicate that respondent No.2-complainant filed the instant complaint registered as FIR in Crime No.306/2022 dated 08.04.2022 against the petitioners for the alleged offences punishable under Section 66 of the Information Technology Act, 2008 and Section 78(1)(a)(iii) of the Karnataka Police*

Act, 1963 (for short "the IT Act" and the "K.P. Act". In pursuance of the same, charge sheet is filed and the same is pending in C.C.No.3865/2023, which is assailed in the present petition.

4. A perusal of the impugned complaint, FIR, charge sheet, statement of witnesses etc., will indicate that insofar as the offences punishable under Section 66 of the IT Act is concerned, necessary ingredients constituting the offence under Section 66 or 90 of the I.T. Act are conspicuously not forthcoming in the material on record. Consequently, the impugned proceedings in relation to the said offences deserves to be quashed. Insofar as the offence punishable under Sections 78(i)(a)(iii) is concerned, under identical circumstances in the case of Raghavendra Shetty Vs. State of Karnataka and another – Crl.P.No.4090/2023 dated 16.08.2023, this Court held as under:

> *"The petitioner and other accused are sought to be prosecuted for the offence punishable under Sections 78(i) and 78(iii) of the Karnataka Police Act.*
>
> *2. The case of the prosecution is that, on 8.4.2023, when the Police Inspector along with the Head Constable was on rounds, they saw two cars, which were parked, and four to five persons were standing, and on apprehending them, it was found that, the accused were checking the mobile phones, they were betting on the cricket match between Chennai and Mumbai Cricket match, and*

playing betting per ball to ball and seized the mobile phones, currency notes of Rs.26,000/- and two cars. The cognizance taken of the aforesaid offences is impugned in this petition.

3. Sri Hashmath Pasha, learned Senior Counsel for the petitioner, submits that, conducting of investigation before obtaining an order under Section 155(2) of Cr.PC is impermissible. He further submits that even if betting for cricket match takes place, it cannot be brought within the ambit of definition of gaming found in Karnataka Police Act. In support, he places reliance on the decision of the coordinate Bench of this Court in Crl.P No.2929/2020 and connected matters (DD 10.1.2022).

4. The learned High Court Government Pleader submits that, the charge sheet material discloses that, the petitioners along with others were betting on the cricket match, and the veracity of the allegations can be considered only after full fledged trial, and at this stage, the registration of FIR does not warrant any interference.

5. Considered the submissions of the learned counsel for the parties.

6. The offence punishable under Section 78(i)(iii) of the Karnataka Police Act is a non-cognizable offence. Before conducting the search and seizure, the police were required to obtain an order from the learned Magistrate as specified

under Section 155 of Cr.PC. In the instant case, the permission was not obtained to conduct search, seizure and arrest the accused. Hence, the charge sheet laid by the police stands vitiated.

7. The coordinate Bench of this Court in Crl.P No.2929/2021 at para-12 has held as follows:

> *"12. One of the petitioners is bookie said to have involved in betting. Sri Hashmath Pasha has relied upon a judgment of the Supreme Court in Board of Control for Cricket vs Cricket Association of Bihar and others (2016 (8) SCC 535) where it is observed that betting is to be legalized. It was argued by the respondent that betting amounts to gaming which is an offence under the Karnataka Police Act. If Section 2(7) of the Karnataka Police Act is seen, its explanation very clearly says that game of chance does not include any athletic game or sport. Cricket is a sport and therefore even if betting takes place, it cannot be brought within the ambit of definition of `gaming' found in Karnataka Police Act."*

8. Admittedly, the accused No.4 is alleged to have been found betting on the cricket match, and the coordinate Bench of this Court has held that cricket is a sport, and therefore even if betting takes place, it cannot be brought within the ambit of definition of gaming found in Karnataka Police Act. Hence, in the absence of essential elements so as to constitute the commission of offence punishable under S ection 78(ii) of the Karnataka Police Act, the registration of FIR for the aforesaid offence stands vitiated. Hence, the

continuation of criminal investigation will be an abuse of process of law. Accordingly, I pass the following:

ORDER

i) Criminal petition is allowed.

ii) The impugned FIR in Crime No.58/2023 of Kota Police Station, Brahmavar Circle, Udupi District and the order dated 8.4.2023 passed in N.C.No.63/2023 by the learned Additional Civil Judge and JMFC, Kundapura, insofar as relates to the accused No.7 are hereby quashed."

5. In view of the aforesaid facts and circumstances and the fact that the issue in controversy in the present petition is covered by the judgment of this Court in the case of Raghavendra Shetty (supra), I deem it just and appropriate to allow the petition and quash the impugned proceedings.

6. In the result, I pass the following:

ORDER

i) The petition is allowed in terms of the order of a Co-ordinate Bench of this Court in the case of Mr. Raghavendra Shetty Vs. State of Karnataka and another – Crl.P.No.4090/2023 dated 16.08.2023.

ii) The impugned proceedings in C.C.No.3865/2023, pending on the file of the XXXVII Addl. Chief Metropolitan Magistrate, Bengaluru, insofar as the petitioners are concerned, are hereby quashed.

iii) The concerned respondents are directed to release the seized articles in favour of the petitioners, immediately upon receipt of a copy of this order.

4. In view of the quashment of the impugned proceedings in C.C.No.3865/2023 *qua* accused Nos.1 to 3, by invoking / applying the doctrine of parity, I am of the view that continuation of proceedings against the petitioner – accused No.4 would amount to an abuse of process of law warranting interference by this Court in the present petition.

5. In the result, I pass the following:

ORDER

i) The petition is allowed in terms of the order of a Co-ordinate Bench of this Court in the case of ***Mr. Raghavendra Shetty Vs. State of Karnataka and another – Crl.P.No.4090/2023 dated 16.08.2023.***

ii) The impugned proceedings in C.C.No.3865/2023, pending on the file of the XXXVII Addl. Chief Metropolitan Magistrate, Bengaluru, insofar as the petitioner – accused No.4 are concerned, are hereby quashed.

iii) The concerned respondents are directed to release the seized articles in favour of the petitioner, if any, immediately upon receipt of a copy of this order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SV
List No.: 1 Sl No.: 2