



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 200018 OF 2025

(482(Cr.PC)/528(BNSS))

BETWEEN:

1. SHANKAR S/O AMRUT HULENOOR,
AGE: 49 YEARS, OCC: TIPPER DRIVER,
R/O. BASAVA NAGAR BRUHMPUR AREA,
TQ. & KALABURAGI-585103.
2. MOHAMMED HANIF S/O ABBAS ALI,
AGE: 42 YEARS, OCC: PRIVATE WORK,
R/O. MISBA NAGAR BRUHMPUR AREA,
KALABURAGI-585103.

...PETITIONERS

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
THROUGH YADGIRI RURAL PS
YADAGIRI CIRCLE YADAGIRI DISTRICT,
REPRESENTED BY THE ADDL. SPP,
HIGH COURT OF KARNATAKA,
BENCH AT KALABURAGI -585107.
2. SRI SHIVAKANTH PSI
AGE: 58 YEARS, OCC: POLICE OFFICER,
R/O. YADAGIRI RURAL POLICE STATION YADAGIRI,
TQ. AND DIST. YADAGIRI-585201.

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1 AND R2)

Digitally signed
by SHILPA R
TENIHALLI
Location: HIGH
COURT OF
KARNATAKA



THIS CRL.P IS FILED U/S.482 OF CR.P.C.(OLD) US/EC 528 OF BNSS, PRAYING TO, QUASH THE ENTIRE PROCEEDINGS IN C.CNO.1740/2024 IN CRIME NO.141/2024, FOR THE OFFENCE PUNISHABLE U/SEC 303(2) OF THE BNSS-2023, FILED BY THE RESPONDENT YADGIR RURAL P.S WHICH IS PENDING ON THE FILE OF CIVIL JUDGE AND JMFC YADGIR,.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

Accused Nos.1 and 2 in C.C.No.1740/2024 pending before the Court of Civil Judge and JMFC Yadagiri, arising out of Crime No.141/2024 registered for the offence punishable under Sections 303(2) of Bharatiya Nyaya Sanhita (for short 'BNS'), 2023 are before this Court under Section 528 of BNSS, 2023 with the prayer to quash the entire proceedings as against them.



2. Heard the learned counsel for the petitioners and learned High Court Government Pleader appearing for respondents.

3. FIR in Crime No.141/2024 was registered by Yadgiri Rural Police Station, Yadgiri for the aforesaid offences as against the petitioners herein on the basis of the first information dated 14.08.2024 received from Shivkanth - Police Sub Inspector attached to Yadgiri Rural Police Station, Yadgiri. After completion of investigation charge sheet has been filed against the petitioners for the aforesaid offences. The trial Court having taken cognizance of the charge sheeted offences has issued summons to the accused persons, assailing the said proceedings the petitioners are before this Court.

4. Learned counsel for the petitioner submits that the allegation against the petitioners is about committing theft of sand and therefore, police could not have registered a FIR against the petitioners on the basis of the first information submitted by the Police Sub-Inspector.



He submits that the provisions of Mines and Minerals (Development and Regulation) Act (for short 'MMRD Act'), 1957 gets attracted in the matter and it is only the authorized officer, who can file a complaint as provided under Section 22 of the MMRD Act. He also submits that in view of Section 30B of the act only special Court can take cognizance of the alleged offences under the MMRD Act, 1957 and the Magistrate could not have taken cognizance.

5. Per contra learned High Court Government Pleader has opposed the petition.

6. Perusal of the first information in the present case would reveal that the tipper lorry bearing registration No.KA-51-AF-1584 belonging to accused No.2 of which the accused No.1 was a driver was intercepted on 14.08.2024 by the first informant and it was found that the accused persons were transporting sand belonging to the State Government in the said tipper lorry. On verification it was found that the accused persons did not have any licence or



permit either to quarry the sand or to transport the same. It is in this background FIR has been registered against accused persons for offence punishable under Section 303(2) of BNS, 2023.

7. Undisputedly, the offences punishable under the MMRD Act, 1957 have not been invoked as against accused persons in the present case. The provisions of MMRD Act, 1957 more so Sections 22 and 30B of the said acts becomes applicable only in the event the penal provisions of the said acts are invoked against the accused persons. In the present case, FIR was registered only for offence punishable under Section 303(2) of IPC and even charge sheet has been filed after investigation only for the said offence. Therefore, the learned Magistrate was fully justified in taking cognizance of the charge sheet offences and issuing summons to the petitioners. I do not find any illegality or irregularity in the impugned criminal proceedings which needs interference by this Court in exercise of its extraordinary powers under Section 528 of



BNSS, 2023. Therefore, I do not find any good grounds to entertain this petition. Accordingly, petition is ***dismissed***.

**Sd/-
(S.VISHWAJITH SHETTY)
JUDGE**

AMM
List No.: 1 Sl No.: 51
CT:PK