IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 10TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO.200211 OF 2025

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

BETWEEN:

SADASHIVAPPA
S/O GOVINDARAYA MUNDARGI,
AGE: 49 YEARS, OCC: AGRICULTURE,
R/O. SHAVANTAGAL VILLAGE,
TQ. DEVADURGA, DIST. RAICHUR-584101.

...PETITIONER

(BY SRI GANESH NAIK, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH JALHALLI POLICE STATION,
TQ. DEVADURGA, DIST. RAICHUR,
ITS REPRESENTED BY ADDL.SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH, DIST. KALABURAGI-585103.

...RESPONDENT

(BY SRI VEERANAGOUDA MALIPATIL, HCGP)

Digitally signed by SHIVAKUMAR HIREMATH
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S.482 OF CR.P.C.(OLD), U/S 528 OF BNSS (NEW) PRAYING TO QUASH THE CHARGE SHEET AND CRIMINAL PROCEEDINGS IN CC NO.731/2024 (CRIME NO. 159/2024 OF JALHALLI POLICE STATION, DIST RAICHUR) AGAINST THE PETITIONER FOR THE OFFENCE PUNISHABLE U/SEC. 78(3) OF KARNATAKA POLICE ACT, PENDING ON THE

FILE OF LEARNED SENIOR CIVIL JUDGE AND JMFC, DEVADURGA.

THIS PETITION COMING ON FOR ORDERS, 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)

Petitioner/accused No.1 is before this Court under Section 482 of Cr.P.C. with a prayer to quash the entire proceedings in C.C.No.731/2024, pending before the Court of Senior Civil Judge and JMFC, Devadurga, arising out of Crime No.159/2024, registered by Jalhalli Police Station, Raichur, for the offence punishable under Section 78(3) of the Karnataka Police Act, 1963.

2. Heard learned counsel for the parties.

3. Learned counsel for the petitioner submits that investigation of the case is commenced in the present case without complying the requirement of Section 155(2) of Cr.P.C. The alleged offence is non cognizable offence and accordingly, he prays to allow the petition.

4. Per contra, learned High Court Government Pleader has opposed the prayer made in the petition.

5. The material on record would go to show that based on the credible information received, the first informant had conducted a raid to the place where the petitioner was allegedly conducting matka and from the possession of the petitioner, a sum of Rs.1,370/- was seized along with certain articles, which were used by the petitioner for conducting matka. The seized articles were subjected to panchanama and thereafter, FIR was registered against him for the alleged offence based on the first information received from the first informant on 07.11.2024. Though the record of police would go to show that the learned Magistrate had allegedly passed an order on 07.11.2024 as required under Section 155(2) of Cr.P.C., however, in the order sheet of the Trial Court, which is produced before this Court, no such order passed under Section 155(2) of Cr.P.C. finds place. The Coordinate Bench of this Court in the case of ***Vaggeppa***

Gurulinga Jangaligi (Jangalagi) Vs. The State of Karnataka, through PSI, Kagwad Police Station, Belagavi[1], has held that any orders passed under Section 155(2) of Cr.P.C. by the learned Magistrate shall find place in the order sheet, in which further proceedings of the said case is required to be continued. In addition to the same, the material on record would go to show that on 06.11.2024 itself, the police had seized certain articles and cash from petitioner/accused No.1 under mahazar and therefore, it is apparent that investigation of the case had commenced on 06.11.024 itself. Undisputedly, the FIR has been registered in the present case for the offence punishable under Section 78(3) of the Karnataka Police Act, 193, which is a non cognizable offence and therefore, compliance of Section 155(2) of Cr.P.C. becomes mandatory.

6. In view of the aforesaid aspects of the matter, it is apparent that there is no compliance of Section

[1] ILR 2020 Kar. 630

155(2) of Cr.P.C. in the present case. Under the circumstances, the impugned criminal proceedings cannot be permitted to be continued as against the petitioner. Accordingly, following order is passed:

ORDER

(i) The criminal petition is allowed;

(ii) The entire criminal proceedings in C.C.No.731/2024, pending before the Court of Senior Civil Judge and JMFC, Devadurga, arising out of Crime No.159/2024, registered by Jalhalli Police Station, Raichur, for the offence punishable under Section 78(3) of Karnataka Police Act, 1963, as against the petitioner/accused No.1, is quashed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SRT
List No.: 1 Sl No.: 30
CT:PK