

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE 2019

BEFORE

THE HON'BLE Mr.JUSTICE P.S.DINESH KUMAR

WRIT PETITION NO.22629 OF 2019 (GM – RES)

BETWEEN:

MR.NARESH,
S/O. LATE K.KRISHNAPPA,
AGED ABOUT 47 YEARS,
#7-2-168, SRI.KRISHNA SADANA,
NEAR SHARADHA APARTMENT,
URWA BOLOOR,
MANGALORE – 575 006.

...PETITIONER

(BY SHRI. AKASH B SHETTY, ADVOCATE)

AND:

1. DIRECTOR GENERAL AND
INSPECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS,
NRUPATHUNGA ROAD,
BANGALORE – 01.

2. DEPARTMENT OF HOME,
REPRESENTED BY SECRETARY,
VIDHANA SOUDHA,
BANGALORE – 01.

3. THE COMMISSIONER OF POLICE,
INFANTRY ROAD,
BANGALORE – 01.
4. SRI.MARUTHI NAIK, SHO,
INSPECTOR,
KADRI EAST POLICE STATION,
MANGALORE – 575 004.
5. SHYAM SUNDAR,
SUB – INSPECTOR CCB
MANGALORE,
MANGALORE – 575 004.
6. MR.MARUTHI S.V.,
SUB – INSPECTOR,
KADRI EAST POLICE STATION,
MANGALORE – 575 004.
7. STATE OF KARNATAKA,
BY KADRI EAST
POLICE STATION,
MANGALORE,
REPRESENTED BY SPP,
HIGH COURT BUILDING,
HIGH COURT OF KARNATAKA,
BANGALORE – 01.

... RESPONDENTS

(BY SRI.K.NAGESHWARAPPA, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 AND 227 OF THE CONSTITUTION OF INDIA READ
WITH SECTION 482 OF CR.P.C. PRAYING TO QUASH THE

FIR IN CRIME NO.0067/2018 DATED 28.02.2018 UNDER SECTIONS 79, 80 OF THE K.P. ACT 1963 BEFORE THE 4TH JMFC COURT, MANGALORE (ANNEXURE - A) AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Heard Shri Akash B.Shetty, learned Advocate for petitioner and Shri K.Nageshwarappa, learned HCGP for respondents.

2. Petitioner has challenged proceedings initiated against them for violation of Sections 79 and 80 of Karnataka Police Act alleging that they were involved in gambling (Matka).

3. Shri Akash B.Shetty, submits that the said offence is non-cognizable and the learned Magistrate has granted permission without applying his mind.

4. Learned HCGP has made available a copy of requisition submitted by the Sub-Inspector of Mangalore East Police Station. A perusal of the said requisition shows that the learned Magistrate has endorsed as 'permitted'. No reasons are recorded for granting permission.

5. This Court has taken a consistent view that a mere endorsement made by the learned Magistrate as 'permitted' without recording reasons is not a speaking order. **[See- *The Padubidri Members Lounge and others Vs. Director General and Inspector General of Police and others (W.Ps.No.42073-42075/2018 D.D. 3.10.2018]*]**

6. In the circumstances, this petition merits consideration and it is accordingly **allowed**. All proceedings in Cr.No.67/2018 registered by

Mangaluru East Police for the offences punishable under Sections 79 and 80 of Karnataka Police Act, pending on the file of 4th JMFC Court, Mangalore, are quashed so far as petitioner is concerned.

No costs.

Sd/-
JUDGE

HJ