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NC: 2025:KHC:50811
WP No. 18789 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU



DATED THIS THE 4TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 18789 OF 2019 (GM-POLICE)

BETWEEN:

SUNIL KUMAR @ SILENT SUNIL
S/O. KRISHNAPPA,
AGED ABOUT 38 YEARS,
R/AT FLAT NO.701, TOWER-6B,
GODREJ WOODMEN'S ESTATE,
HEBBAL, BENGALURU-560 024.

...PETITIONER

(BY SRI. MAYUR D BHANU, SRI. SHAMANTH GOWDA. J., AND
SRI. CHARAN N.S., ADVOCATES)

AND:

1. STATE OF KARNATAKA
HOME DEPARTMENT,
BY ITS SECRETARY,
BANGALORE-560 001.
2. MR. ALOK KUMAR
THE ADDITIONAL COMMISSIONER OF POLICE
(CRIME)
NO.1, INFANTRY ROAD,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI. MAHANTESH SHATTAR, ADDITIONAL GOVERNMENT
ADVOCATE FOR RESPONDENT NOS.1 AND 2)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT ALL THE OFFICERS OF THE KARNATAKA STATE POLICE DEPARTMENT TO ISSUE A NOTICE TO THE PETITIONER, IN THE EVENT HIS APPEARANCE IS REQUIRED FOR THE PURPOSE OF ENQUIRY OR INVESTIGATION.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioner has sought for a direction to all the officers of the Karnataka State Police Department to issue a notice to him whenever his appearance is needed for the purpose of enquiry or investigation.

2. The petitioner contends that as per the records maintained by the Police, he has been termed as a "rowdy sheeter". He contends that the Yelahanka Police Station registered a *suo motu* case on 20.02.2017 in Crime No.58/2017 for the offences punishable under Sections 399 and



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402 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 30 and 27 of the Arms Act, 1959. The petitioner was not named as an accused but he claimed that he was later implicated in the said case. He contends that between 08.02.2017 and 21.02.2017, he was in Police custody in Crime No.42/2017 registered by Yelahanka Police Station. After he was implicated in the case, provisions of the Karnataka Control Of Organized Crimes Acts, 2000 (for short, 'the KCOCA') were invoked against the petitioner and he was in custody from February 2017 till November 2018. He was released on bail on 14.11.2018 in Spl.C.C. No.414/2017 registered by Yelahanka Police Station, but he was taken into custody by the Parappana Agrahara Police Station and he was taken to the Police station where the officers of the Central Crime Branch (CCB) took him to their office for the purpose of conducting enquiry. He claimed that he was set free after 11 p.m. He was directed to attend the CCB office for the next three days failing which he was threatened of being implicated in a case related to murder of one Mr. Ravi, Ex-Mayor of Tumakuru. The petitioner claims that he complied with the directions of the CCB officer. He claims that on 10.04.2019, his wife received a call from a



mobile subscriber No.9480801545 and she was told to inform the petitioner to be present at the CCB office on 12.04.2019 at 10.00 a.m. to attend a rowdy parade being conducted by the respondent No.2. Accordingly, the petitioner attended the CCB office where a rowdy parade was conducted by the respondent No.2. The respondent No.2 asked a few questions to which the petitioner answered. However, without any provocation, the respondent No.2 lost his cool and threatened the petitioner by raising his baton and abused him. The petitioner claims that he remained silent which infuriated the respondent No.2 further and he started abusing the petitioner, caught hold of him by his ear and hair and pushed him around. The respondent No.2 informed his subordinate Mr.Balraj to lock him up and conduct a detailed enquiry. The petitioner claims that he was taken inside the CCB office and was abused by the respondent No.2. Petitioner claims that he was taken to his house and his house was searched without the authority of law and since they found nothing in the house, he was brought back to the CCB office and released at about 10.30 p.m. He was directed to attend the CCB office again on 13.04.2019. When he visited the CCB office on 13.04.2019 at about 11.30 a.m., the respondent No.2



was not present. The Police Officers present in the CCB office conducted an enquiry and allowed the petitioner to go home at 7 p.m. He was directed to again come back on 14.04.2019. The petitioner claims that he again visited the CCB office on 14.04.2019 at 10 a.m. on which day too, the respondent No.2 was not available. The Police officers enquired with the petitioner and released him by 1 p.m. He was asked to come again on 15.04.2019. On 15.04.2019, the petitioner visited the CCB office, but the respondent No.2 was not available and the Police officers conducted some enquiry and released him. He was however warned not to initiate any legal action. The petitioner claims that these acts of the respondent No.2 are arbitrary and a colourable exercise of power. He contends that there is no law or procedure for conducting a rowdy parade, telecasting the same on public channels and also printing such parades in print media. He claims that he has reformed and is living a life of dignity with his family. He claims that the respondent No.2 has violated his fundamental right guaranteed under Article 21 of the Constitution of India. He contends that due to the frequent visits by the Police to his house, he is



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always under the fear of being arrested and implicated in a false case.

3. The petitioner initially sought for a direction to the respondent No.2 to compensate him for detaining him for 3 days for no fault of his and for a direction to the respondent No.2 to desist from threatening him. These two relief were given up in the light of the fact that the Criminal cases registered against the petitioner all ended in an acquittal or quashed by this Court. The only outstanding issue is that the petitioner's name continues to be recorded as a rowdy sheeter in Subramanyanagar Police Station and therefore, the petitioner sought for a direction to all officers of the Karnataka State Police Department to issue a notice to him whenever his appearance is needed for the purpose of enquiry or investigation.

4. Learned counsel for the petitioner submitted that out of the 24 cases filed against the petitioner by various Police Stations, all the cases have either ended in an acquittal or proceedings impugned therein are quashed by this Court. He contends that except for the rowdy sheet, there are no pending



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cases against the petitioner. He contends that the respondents under the guise of keeping a watch on the petitioner are orally summoning him and are abusing him apart from detaining him without any cause. He submits that there is no procedure either in the Karnataka Police Manual or in the Bharatiya Nyaya Sanhita, 2023 prescribing the manner of summoning a person whose name appears in the rowdy list. Nonetheless, the respondents are in the habit of summoning the petitioner orally. This he contends is not only a violation of his right to privacy but also a violation of his personal liberty. In support of this contention, the learned counsel for the petitioner has relied upon the following judgments:

1. *D.K.Basu v. State of W.B. with Ashok K. Johri v. State of U.P.* [(1997) 1 SCC 416];
2. *Mohammed Quadeer and others v. Commissioner of Police, Hyderabad City and another* [1999 SCC OnLine AP 1119];
3. *Sunkara Satyanarayana v. State of Andhra Pradesh, Home Department and others* [1999 SCC OnLine AP 974];
4. *Mehmood Nayyar Azam v. State of Chhattisgarh and others* [(2012) 8 SCC 1];



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5. *Rini Johar and Another v. State of Madhya Pradesh and others [(2016) 11 SCC 703];*
6. *Sukanya Shantha v. Union of India and Others [2024 SCC OnLine SC 2694];*
7. *Directions in the matter of demolition of structures, in RE [(2025) 5 SCC 1];*
8. *M.A.Khaliq and others v. Ashok Kumar and Another [2021 SCC OnLine SC 3107];*
9. *L.N.Nithyanantham v. The State, Represented by The Superintendent of Police, Pudukkottai and Others [2021 1 LW(Cri) 578];*
10. *Abdul Hameed Khan v. State of Telangana [2021 SCC OnLine TS 279];*
11. *Shaik Johny Saida v. State of Andhra Pradesh, Rep. by its Principal Secretary, Home Department and Others [2021 SCC OnLine AP 272];*
12. *Pratipati Narasimha Rao v. SHO, Krishna Dist. [2017 0 Supreme (AP) 629];*
13. *G.B.C. Raj Gopal v. The Government of A.P. rep., by the Principal Secretary, Home Department, Secretariat Buildings, Secretariat, Hyderabad, A.P. and six others [2014 SCC OnLine AP 322];*



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14. *T.S.Ravindran v. The Commissioner of Police Chennai Sub-Urban St. Thomas Mount, Chennai and others [2012 SCC OnLine Mad 774];*

5(i). The writ petition is opposed by the State, who have filed a detailed statement of objections *inter alia* contending that the petitioner is a rowdy sheeter and therefore, the Police officials might have called his wife over phone to verify the whereabouts and activities of the petitioner. It is contended that surveillance of the petitioner was conducted as per the clause 2 of the Standing Order No.1003 dated 27.07.2013 which reads as under:

"2. To ensure that such anti-social elements are kept under check to maintain public order and to ensure maintain public order and to ensure peace and tranquility and to protect the legitimate interests of the law abiding citizens, the Police Manual has provided for active surveillance of these rowdies in order No.1059."

(ii). It is claimed that the petitioner being a rowdy sheeter is involved in law and order incidents thereby generating tension and even escalating it. They contend that



maintaining a rowdy sheet has been a practice since the days of British Raj and it is managed by the Police diligently. They contend that the rowdy sheet is essential to monitor the rowdy elements and maintain law and order and peace and tranquility in the Society. They also reiterated that the rowdy sheet and rowdy parade are not punitive but that is to maintain law and order in public. Further, it is contended that policing by its very nature, is a tough job and the petitioner being a habitual offender, is involved in heinous crimes and 24 cases are registered against him in various Police Stations in Bengaluru.

(iii). It is claimed that it is the duty of the Police to keep an eye on rowdy sheeters, their followers, henchmen, goondas, bootleggers and collect information from various sources about their activities, their businesses etc. They contend that the petitioner masquerading as a social worker is trying to demoralize the police officials by filing frivolous cases. They contend that in the guise of a social reformer, the petitioner and other two rowdy sheeters, namely, Sri Vijayakumar and Sri Puroshotham had filed petitions before the National Human Rights Commission (NHRC), Director General of Police and Inspector General of Police, Home Minister and



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also before the Chief Minister of Karnataka. Further, they contend that it is the duty of the Police to collect data/intelligence for detection and prevention of crime which is a duty cast upon them under Section 149 of the Code of Criminal Procedure, 1973.

(iv). The respondents specifically contend "***...it is an admitted fact that as on today there is no procedure contemplated either in the Police Act, 1963 or in the Police Manual, to summon a rowdy sheeter for inquiry***".

Further, they claim that Standing Orders, Circulars are issued from time to time towards control of rowdyism and surveillance of rowdies. They have referred to Standing order No.157 in No.C3-11/55 dated 14.02.1955 regarding rowdy sheet and procedure to enter the names of persons in the rowdy sheet and about the maintenance of records in rowdy sheet etc. They have referred to Order Nos.1058 and 1059 of the Karnataka Police Manual and contend that they are the relevant orders which prescribe procedures in respect of rowdyism, rowdy sheeter and surveillance of rowdies and rowdy sheeter. They have also referred to Standing Order No.1003 dated 27.07.2013 under the Karnataka Police Manual which



prescribes a procedure to control and manage rowdies. They contend that in the light of a judgment of a coordinate Bench of this Court in ***B.S. Prakash v. The State of Karnataka [W.P. No.4504/2021 and connected cases disposed off on 22.04.2022]***, a circular dated 30.07.2025 was issued by the Director General and Inspector General of Police, Karnataka State, which prescribes the procedure to be followed while entering the names of rowdies in the rowdy register. They contend that one of the most important functions of the Police is the early detection and prevention of crime and emphasis is placed on collection of data and intelligence. This they contend is the essential substratum and compelling public interest for them doing so. Therefore, it is claimed that the validity of the Standing Orders of the Karnataka Police Manual is not questioned in this writ petition and therefore, the aspect of *vires* of the Standing Orders cannot be looked into by this Court and this Court cannot prescribe any new Rules and Regulations to be followed while summoning the rowdy register for the purpose of enquiry as it is the exclusive domain of the State legislature to enact any laws or frame Rules.



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(v). It is contended that the Standing Orders of the Karnataka Police Manual are not unconstitutional as procedural safeguards are provided and are implemented in accordance with law. Reference is made to the judgment of the Hon'ble Apex Court in ***K.S. Puttaswamy and Another v. Union of India and Others [(2017) 10 SCC 1]*** and it is contended that the factual context in which the judgment was rendered is different from the case on hand and therefore, no parallel can be drawn between the case of the petitioner and the case of ***K.S. Puttaswamy*** (supra). Likewise, it is contended that the Hon'ble Apex Court in ***Gobind v. State of Madhya Pradesh and Another [(1975) 2 SCC 148]*** and ***Malak Singh and Others v. State of P and H and Others [(1981) 1 SCC 420]*** recognized the need for and upheld discreet unobtrusive surveillance of suspects. Further reference is made to the judgment of the Hon'ble Apex Court in ***Sunkara Satyanarayana v. State of Andhra Pradesh [1999 (6) ALT 249]***, where it is held that discreet surveillance in order to prevent crime is permissible.

(vi). While parting it is contended by the respondents that there are 6540 rowdies in Bengaluru City and prescribing



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any procedure for summoning them would cause problems for maintenance of law and order and the general public would be disturbed and may lead to anarchy. Finally it is contented. that ***"At the most, this Hon'ble Court may direct the State of Karnataka to frame rules and the regulations."***

6. The learned Additional Government Advocate submitted that though there are no Rules or procedure for summoning a rowdy sheeter, the practice has been that whenever presence of a rowdy sheeter is needed, he would be orally summoned by the concerned Police and after enquiry, he would be sent back. He submits that this does not offend the right of the petitioner in any manner whatsoever. Therefore, this Court should not examine the question whether such summoning offends any of the rights of the petitioner. He also contends that in view of the large number of rowdy sheeters in Bengaluru City, it would be highly impracticable to follow the procedure of issuing notices to the rowdy sheeters. He however contends that if the Court feels the need, then it may reserve liberty to the State Government to take a decision.



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7. I have considered the submissions of the learned counsel for the petitioner and the learned Additional Government Advocate for the respondents.

8. Before this Court proceeds to decide the writ petition, it is appropriate to add a caveat that this Court is not dealing with the validity or otherwise of the rowdy sheet opened in the name of the petitioner. Therefore, any incidental observations made by this Court shall not be construed as an opinion about the validity or otherwise of the rowdy sheet opened in the name of the petitioner.

9. A coordinate Bench of this Court in **B.S. Prakash's case (supra)**, has observed as follows:

"(b) Policing by its very nature, is a tough job whichever be the jurisdictions and whatever be the cultural & educational levels of the society concerned. In a society like ours it is even more complex, regard being had to a plurality of factors. Policing essentially involves exercise of sovereign power of State having implications on rights & liberties of individuals. Without policing one cannot conceive of law & order and peace & tranquillity in an organised society. Paradoxically, police are, in a



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sense, an unwelcome guest. However, their indispensability needs no proof. Policing, regardless of its enormous social utility continues to be a thankless job. Ours is the governance limited by Constitution. Police being the officials of the State do not enjoy immunity from constitutional control and more particularly Part III discipline."

10. In ***Malak Singh's case (supra)***, the Hon'ble Apex Court held as follows:

"6. *Prevention of crime is one of the prime purposes of the constitution of a police force. The preamble to the Police Act, 1861 says: "Whereas it is expedient to reorganise the police and to make it a more efficient instrument for the prevention and detection of crime." Section 23 of the Police Act prescribes it as the duty of police officers "to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances". In connection with these duties it will be necessary to keep discreet surveillance over reputed bad characters, habitual offenders and other potential offenders. Organised crime cannot be successfully fought without close watch of*



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suspects. But, surveillance may be intrusive and it may so seriously encroach on the privacy of a citizen as to infringe his fundamental right to personal liberty guaranteed by Article 21 of the Constitution and the freedom of movement guaranteed by Article 19(1)(d). That cannot be permitted. This is recognised by the Punjab Police Rules themselves. Rule 23.7, which prescribes the mode of surveillance, permits the close watch over the movements of the person under surveillance but without any illegal interference. Permissible surveillance is only to the extent of a close watch over the movements of the person under surveillance and no more. So long as surveillance is for the purpose of preventing crime and is confined to the limits prescribed by Rule 23.7 we do not think a person whose name is included in the surveillance register can have a genuine cause for complaint. We may notice here that interference in accordance with law and for the prevention of disorder and crime is an exception recognised even by European Convention of Human Rights to the right to respect for a person's private and family life. Article 8 of the Convention reads as follows:



"(1) Everyone's right to respect for his private and family life, his home and his correspondence shall be recognised.

(2) There shall be no interference by a public authority with the exercise of this right, except such as is in accordance with law and is necessary in a democratic society in the interests of national security, public safety, for the prevention of disorder and crime or for the protection of health or morals."

11. Under Section 168 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS, 2023'), every police officer has a right to interpose for the purpose of preventing, and shall, to the best of his ability, prevent the commission of any cognizable offence. Under section 170 of the BNSS, 2023, when a police officer comes to know of any information that a cognizable offence is about to be committed, he may arrest without a warrant any person who is suspect of committing such an offence. Under Section 35(3) of the BNSS, 2023, a police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made,



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or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or such other place as may be specified in the notice and where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

12. Therefore, it may be necessary for the police to identify persons who have a tendency to indulge in crime and criminal activities. Therefore, provision is made in Order No.1059 of the Karnataka Police Manual which defines a rowdy as follows:

"1059. (1) *A rowdy may be defined as a goonda and includes a hooligan, tough, vagabond or any person who is dangerous to the public peace and tranquility.*

(2) *The main forms of rowdyism are:-*

- (a) *Passing indecent remarks at women and School and College Girls;*
- (b) *Intimidation of law abiding people by acts of violence or by show of force or by abusive language;*
- (c) *Forcible collection of subscription;*



- (d) Taking sides in petty quarrels between land-lords and tenants or between co- tenants and threatening people of the opposite party;*
- (e) Disorderly conduct;*
- (f) Rioting; and*
- (g) Snatching and committing robbery"*

13. Though the Karnataka Police Manual is a guide to the Police, it has no statutory backing but has all the traits of a statute. The Register of Rowdies is maintained in Form No.100 in three parts viz., Part A, Part B and Part C in separate volumes. Part A contains names and particulars of 'Confirmed Rowdies' who are residents within the limits of the Police Station concerned. Part B contains the names and particulars of 'Confirmed Rowdies' who are not residents in the Police Station limits but operate within its jurisdiction as well as names of 'Homeless Confirmed Rowdies'. Part C contains names and particulars of "Novices" who are budding goondas, who may be either residents or non-residents of the Police Station concerned. In order to enter the name of a rowdy or to delete the name of a rowdy from the rowdy register, it is



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necessary that prior orders are obtained from a Superintendent of Police or the Sub-Divisional Police Officer. A coordinate Bench of this Court in ***B.S Prakash's case (supra)*** while laying down the guidelines before entering the name of a person in the Rowdy Register, interposed an additional condition which was not envisaged under the Karnataka Police Manual, which is as follows:

"ii. A brief proposal notice shall be sent to the individual concerned in a sealed cover with an option to submit his representation within two weeks as to why his name should not be registered as a rowdy. However, there is no need to afford a personal hearing. In exceptional cases notice may be dispensed with for the reasons to be recorded in the Register of Rowdies."

14. Therefore, the coordinate Bench of this Court opened a window of hope to the rowdies to represent against entering their names in the Rowdy Register. Until the judgment was rendered by a coordinate Bench of this Court in ***B.S.Prakash's case (supra)***, the Karnataka Police Manual was dead silent on this. It is, therefore, evident that while entering the name of a person in the Rowdy Register, there



was and there is no provision or procedure prescribed to hear the person before entering his name in the Rowdy Register. This is so, as a Rowdy Register is an internal document prepared by the Police to keep a vigil and watch over persons who exhibit tendency of indulging in acts of rowdyism. This also acted as a ready reckoner to all those incumbents who were transferred from one Police Station to the other.

15. The Hon'ble Apex Court in the case of ***M.A. Khaliq and Others v. Ashok Kumar and Another [2021 SCC OnLine SC 3107]*** held "*The mere fact that no crime was registered, could not be a defence, nor would it be an escape from the rigour of the decisions rendered by this Court. As a matter of fact, summoning the person without there being any crime registered against him and detaining him would itself be violative of basic principles*". However, the right of the Police to conduct surveillance over criminals or persons accused of crime is recognized as a way to maintain law and order in the Society. This position of law is underscored in the judgment of the Hon'ble Apex Court in ***Kharak Singh v. State of U.P and Others [AIR 1963 SC 1295]*** and ***Sharda v. Dharm Pal [(2003) 4 SCC 493]***. After all, it must be borne in mind that



it is not only the right of privacy of an individual or his right not to be disturbed that is at stake but it is the triangulation of the interests of other citizens and their family, the erring citizen and the public at large that is at stake. The State has a duty to protect every person, his or her property and for this purpose, provisions are made in the Bharatiya Nyaya Samhita, 2023 (for short, 'BNS, 2023') to enable everyone to go about their lives without fear or harm to their person or property. Therefore, it is in the interest of everyone that serious offences/cognizable offences are prevented at the earliest or is effectively investigated and accused are brought to book. However, while doing so, the State and its instrumentalities should be fair to everyone concerned.

16. In the instant case, the petitioner has not denied the fact that his name appears in the Rowdy Register and that he was accused in nearly 24 cases involving heinous offences. It is undisputed that the petitioner is acquitted in 22 cases involving serious offences ranging from murder to dacoity. A case in Crime No.58/2017 was registered by the Yelahanka Police Station against the petitioner and others for the offences punishable under Sections 399 and 402 of the IPC read with



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Sections 27 and 30 of the Indian Arms Act, 1959. A coordinate Bench of this Court in terms of the order dated 07.11.2025 passed in W.P. No.14198/2024, quashed the crime in Crime No.58/2017 all further proceedings taken thereto in Spl.C.C.No.414 of 2017, which was pending on the file of XLIV Additional Chief Metropolitan Magistrate, Bengaluru, qua the petitioner herein. Another case in Crime No.173/2024 registered by the Malleshwaram Police Station, Bengaluru, for the offences punishable under Sections 132, 3(5) and 352 of the Bharatiya Nyaya Sanhita, 2023, against the petitioner herein and all further proceedings thereto, were also quashed by a coordinate Bench of this Court in terms of the order dated 17.12.2024 passed in W.P. No.33019/2024. It appears that there is one case which is pending trial against the petitioner. The moot question in this case is whether the petitioner could be summoned orally on the premise that his name appears in the Rowdy Register/s maintained by the Subramanya Nagar Police Station, Yelahanka New Town Police Station, Rajajinagar Police Station and Amruthahalli Police Station. The learned Additional Government Advocate has categorically stated in the statement of objections that there is no provision either in the



Karnataka Police Act, 1963 or the Karnataka Police Manual which prescribes the procedure for summoning a person whose name is entered in the Rowdy Register. As stated earlier, maintenance of a Rowdy Register is an internal document for the Police Department to keep a vigil on persons who have a tendency to indulge in crimes and such person has no say in the matter of entering his name in the Rowdy Register. Therefore, unless there is a procedure in law prescribed to secure the presence of a rowdy, the same would fall foul of Article 21 of the Constitution of India. This Court is not oblivious of the position of law that a mere entry of a person's name in the Rowdy Register does not deprive his / her fundamental rights guaranteed under the Constitution of India though in respect of convicts, their rights are restricted. The right under Article 21 of the Constitution of India is not only guaranteed to citizens but also non-citizens making it potent and a formidable shield against any excesses by the State Government. Justice V.R. Krishna Aiyer in his inimitable style in ***Sunil Batra v. Delhi Administration and Others [(1978) 4 SCC 494]*** has observed as follows:



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"52. True, our Constitution has no 'due process' clause or the VIII Amendment; but, in this branch of law, after Cooper [R.C. Cooper v. Union of India, (1970) 1 SCC 248 and Manika Gandhi [Maneka Gandhi v. Union of India, (1978) 1 SCC 248] the consequence is the same. For what is punitively outrageous, scandalizingly unusual or cruel and rehabilitatively counter-productive, is unarguably unreasonable and arbitrary and is shot down by Articles 14 and 19 and if inflicted with procedural unfairness, falls foul of Article 21. Part III of the Constitution does not part company with the prisoner at the gates, and judicial oversight protects the prisoner's shrunk fundamental rights, if flouted, frowned upon or frozen by the prison authority. Is a person under death sentence or undertrial unilaterally dubbed dangerous liable to suffer extra torment too deep for tears? Emphatically no, lest social justice, dignity of the individual, equality before the law, procedure established by law and the seven lamps of freedom (Article 19) become chimerical constitutional claptrap. Judges, even within a prison setting, are the real, though restricted, ombudsmen empowered to proscribe and prescribe, humanize and civilize the life-style within the concerns. The operation of Articles 14, 19 and 21 may be pared down for a prisoner but not puffed out altogether. For example,



public addresses by prisoners may be put down but talking to fellow prisoners cannot. Vows of silence or taboos on writing poetry or drawing cartoons are violative of Article 19. So also, locomotion may be limited by the needs of imprisonment but binding hand and foot, with hoops of steel, every man or woman sentenced for a term is doing violence to Part III. So Batra pleads that until decapitation he is human and so should not be scotched in mind by draconian cellular insulation nor stripped of the basic fellowship which keeps the spirit flickering before being extinguished by the swinging rope.

53. *Is it legal or legicidal (sic) to inflict awesome loneliness on a living human? The lesser poser to the prison administration is, what is its authority, beyond bare custody, to wound the condemned men by solitary confinement? Indeed, the Additional Solicitor General, at the threshold, abandoned such an 'extinguishment' stance ambiguously lingering in the State's counter-affidavit and argued only for their realistic circumscription, since a prison context affects the colour, content and contour of the freedoms of the legally unfree. The necessary sequitur is that even a person under death sentence has human rights which are non-negotiable and even a dangerous prisoner, standing trial, has basic liberties which cannot be bartered away."*



17. In ***Selvi and others v. State of Karnataka [(2010) 7 SCC 263]***, the Hon'ble Apex Court while considering the validity of narcoanalysis test held that the same would violate not only Article 20(3) but also Article 21 of the Constitution of India as there was no procedure prescribed in law for conducting a test. The Court even refused to permit narcoanalysis as an investigative tool and held that even in respect of offences against the State, such a test cannot be resorted to nail the accused. The Hon'ble Apex Court went on to hold: *"We have already pointed out that the rights guaranteed in Articles 20 and 21 of the Constitution of India have been given a non-derogable status and they are available to citizens as well as foreigners. It is not within the competence of the judiciary to create exceptions and limitations on the availability of these rights."* Article 21 of the Constitution is controlled only by the words *"according to procedure established by law"*. Law as defined in Article 13 of the Constitution of India would encapsulate any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.



18. The procedure established by law which controls Article 21 should be “due procedure” and not fanciful, arbitrary or oppressive (***See Shabnam v. Union of India [(2015) 6 SCC 702]***).

19. Therefore, whatever might be the consequences, when there is no procedure prescribed in law to summon a rowdy sheeter, the respondent - State cannot justify summoning them orally and detaining them in the Police station for long hours as that would infringe their personal liberty. Though the respondents have claimed that the petitioner was involved in serious offences, the petitioner claims that he has reformed and wants to lead a dignified life with his family. As the popular saying goes “every saint has a past and every sinner a future”, the petitioner should be given an opportunity to reform, notwithstanding his gory past. Therefore, this Court has no hesitation in holding that so long as there is no procedure established by law, the respondents cannot summon a person whose name appears in the Rowdy Register. The Rowdy Register shall always be maintained as a reference to keep track of the activities of the person without intruding his private space, as right not to be disturbed is now a part of the



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right of privacy which is declared to be an integral part of the Article 21 of the Constitution of India (***refer Justice K.S Puttaswamy (Retd) and Another v. Union of India and Others [(2017) 10 SCC 641]***). Nonetheless, since the petitioner has himself volunteered to appear before the Police if a notice is issued, if the Police adopts such a procedure, that may not amount to violation of personal liberty of the petitioner. In this regard, it is useful to refer to the judgment of the Hon'ble Apex Court in ***Selvi's case (supra)***, where though the Hon'ble Apex Court held that the conduct of narcoanalysis test violates Article 20(3) and Article 21 of the Constitution of India, it held that if a person voluntarily agrees to undergo such a test, then the same may be done.

20. However, having said that, the interest of the Society at large also cannot be undermined but must be balanced *vis a vis* the right of an individual in view of the claim of the respondents that there are more than 6500 rowdies in the City of Bengaluru. When a rowdy sheeter is also accused of commission of an offence, the Police would undoubtedly have the powers of summoning him in the manner provided under Section 35 of the BNSS, 2023. In that situation, the person



whose name is entered in the Rowdy Register cannot avoid being summoned by taking shelter under Article 21 of the Constitution of India. If a name of a person is entered in the history sheet maintained by the Police under Order Nos.1052 and 1058 of the Karnataka Police Manual apart from conducting surveillance in the manner provided under Chapter XXIV of the Karnataka Police Manual. If such person also is suspect of commission of any offences, then the right of the Police under Section 35 of the BNSS, 2023 shall remain in tact.

21. Till the State passes any law prescribing the manner of summoning a person whose name is found in the rowdy register, this Court as a *sentinel qui vive* of fundamental rights of not only rowdy sheeters but also the public at large, considers it appropriate to balance the interest of the rowdy sheeters as well as the State and the Public.

22. In view of the above, the following Order is passed:

- (i) The petition is ***allowed in part***. So long as the petitioner does not involve in the commission of any offence and is not suspected of being involved in a crime, the Police shall not summon him orally



only on the ground that his name appears in the rowdy list.

- (ii) Till the State brings in any law prescribing the procedure for securing the presence of a rowdy sheet, in order to secure the interest of the general public, the petitioner shall furnish a mobile number before the Police Stations, namely, Subramanya Nagar Police Station, Yelahanka New Town Police Station, Rajajinagar Police Station, and Amruthahalli Police Station, where rowdy sheets are registered against him where the respondent - Police can inform him by sending an Short Message Service (SMS) or WhatsApp message to visit the Police Station for obtaining information about his activities. If despite sending an SMS or a WhatsApp message, the petitioner fails to present himself before the Police, they may visit his house for enquiry or surveillance.
- (iii) It is made clear that if the petitioner involves in any crime punishable under any enactment, then the protection granted to him by this order shall automatically vanish.



- (iv) This order shall not affect the power of the Executive Magistrate or the District Magistrate or the Chief Judicial Magistrate, as the case may be under Chapter IX of the Bharatiya Nagarik Suraksha Sanhita, 2023, as regards the petitioner.

In view of disposal of this petition, the pending applications do not survive for consideration and the same stand disposed off.

**Sd/-
(R. NATARAJ)
JUDGE**