



Reserved on : 11.03.2026
Pronounced on : 25.03.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8163 OF 2026 (GM -RES)

BETWEEN:

V.CHITTI BABU
S/O V.VARADARAJULU NAIDU,
AGED ABOUT 58 YEARS,
RESIDING AT NO.154, 3RD CROSS,
GIRINAGAR 1ST PHASE,
BENGALURU SOUTH - 560 085
PARTNER OF LEGACY BREWING COMPANY
REGISTERED UNDER THE LIMITED LIABILITY
PARTNERSHIP ACT, 2008.

... PETITIONER

(BY SRI SHARATH S.GOWDA, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
BY BYATARAYANAPURA POLICE,
MM ROAD, BYATARAYANAPURA,
BANASHANKARI 1ST STAGE,
BENGALURU - 560 026.

2 . NAVEEN M.S.,
AGED ABOUT 38 YEARS,
POLICE SUB-INSPECTOR,
RAJARAJESHWARINAGAR POLICE STATION,
RR NAGAR, BENGALURU – 98.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, 2023 PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE FIR DATED 05/03/2026 REGISTERED IN CRIME NO.69/2026, DATED 05/03/2026 BY THE RESPONDENT NO.1-RAJARAJESHWARI POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SECTION 77 OF THE JUVENILE JUSTICE ACT, 1986 AND SECTION 36(1)(g) OF THE KARNATAKA EXCISE ACT, 1965, ON THE FILE OF XLVI ADDITIONAL CHIEF JUDICIAL MAGISTRATE, BENGALURU, QUA THE PETITIONER, VIDE ANNEXURE A; B. ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE COMPLAINT DATED 04.03.2026 ON THE BASIS OF WHICH THE AFORE STATED FIR IS REGISTERED, QUA THE PETITIONER, VIDE ANNEXURE B; ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED 05.03.2026, IN CASE NO. NC 79/2026 PASSED BY THE XLVI ADDITIONAL CHIEF JUDICIAL MAGISTRATE, BENGALURU, IN GRANTING PERMISSION UNDER SECTION 174(2) OF THE BNSS ACT, TO THE RESPONDENT POLICE TO INVESTIGATE THE CASE BY REGISTERING FIR, QUA THE PETITIONER, VIDE ANNEXURE C.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 11.03.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before the Court calling in question a crime in Crime No.69 of 2026 registered for offences punishable under Section 36(1)(g) of the Karnataka Excise Act, 1965 ('Excise Act' for short) and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act' for short).

2. Heard Sri Sharath S.Gowda, learned counsel appearing for the petitioner and Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for the respondents.

3. Facts in brief, germane, are as follows:-

3.1. The petitioner, a partner in Legacy Brewing Company, a Company registered under the Limited Liability Partnership Act, 2008 is drawn as accused No.1 in the present proceedings. The facts that led to the petitioner being drawn as accused No.1 are that on a particular day i.e., 31-01-2026 a boy named Reyan Jacob, a juvenile, is said to have died in his apartment. A case is

registered as an unnatural death in UDR No.4 of 2026. During the course of investigation of suicidal death of the boy, as afore-noted, it comes to light that, commission of suicide by falling from the 7th floor of the apartment was on consumption of liquor in Legacy Brewing Company, Rajarajeshwarinagar. Therefore, a *suo-motu* complaint comes to be registered on 01-02-2026 alleging offences punishable under Section 36(1)(g) of the Excise Act and Section 77 of the Act. On the said complaint a crime in Crime No.32 of 2026 comes to be registered.

3.2. Both these offences being non-cognizable, the crime could not have been registered without at the outset taking permission from the hands of the learned Magistrate as obtaining under Section 174(2) of the BNSS or Section 155(2) of the earlier regime of the IPC. The act of registration of crime in Crime No.32 of 2026 was challenged before this Court in Writ Petition No.3613 of 2026. This Court disposed of the petition on 05-02-2026 quashing the proceedings on the ground that permission of the learned Magistrate was imperative prior to registration of the crime. In the said order, liberty was reserved to the State to act in accordance

with law. The State then, in exercise of the liberty so granted, registered a complaint again on 04-03-2026 as NCR 79 of 2026 and while drawing up a non-cognizable report, seeks permission of the learned Magistrate for registration of crime. The learned Magistrate permits registration of crime in terms of his order dated 05-03-2026. Pursuant to the permission so granted, the crime is now registered for the very offences that had been registered earlier against the petitioner. The petitioner is back at the doors of this Court, calling in question registration of the subject crime in Crime No.69 of 2026, for it having been registered on 05-03-2026.

4. The learned counsel Sri Sharath S.Gowda appearing for the petitioner would vehemently contend that the order of the learned Magistrate in granting permission suffers from non-application of mind and is in complete violation of plethora of judgments rendered by coordinate Benches including the judgment of the coordinate Bench in **VAGGEPPA GURULINGA JANGALIGI v. STATE OF KARNATAKA – ILR 2020 Kar.630**. He would further take this Court through the bill appended to the petition to contend that what was offered to the boy who was accompanied by students and died

later did not contain serving of liquor. It is his case that liquor was carried by 15 years old student along with other students of the same age in his bag. They go under the table empty the liquor into glasses, consume it and goes outside the Legacy Brewing Company and, therefore, the petitioner or the staff members are not aware of what they had consumed. It is a Brewing Company where families come and children also would come, but liquor is not served to persons below 18 years of age. The incident now reported has not happened on account of serving of liquor by the petitioner, but on own volition. It may be that outside he might have consumed more liquor. Therefore, the learned counsel for the petitioner submits that what the Act punishes is for serving of liquor and not consumption of liquor.

5. Per contra, the learned Additional State Public Prosecutor appearing for the State submits that upto 6.30 in the evening the boy along with others stayed in the brewery, goes to the apartment i.e., his house and at 9.40 p.m. falls from the 7th floor of the building and dies. The post-mortem report of the boy is indicative of the fact that there was presence of alcohol in his body and the

reason was consumption of alcohol in the Legacy Brewing Company. The boy being in Legacy Brewing Company is an admitted fact upto 6.30 p.m. Whether he has gone to the house directly or not is a matter of investigation. The story twined by the learned counsel for the petitioner that boys took the liquor out of the bag, mixed with it something and consumed are all a matter of investigation. The only ground on which the earlier petition was allowed was, there was no permission taken from the hands of the learned Magistrate for registration of the crime. Therefore, the process had been redone right from the stage of furnishing the complaint to the learned Magistrate. The order of the learned Magistrate is in detail and cannot be construed to be suffering from non-application of mind. He seeks dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts are not in dispute. A boy by name Reyhan Jacob along with his friends visited the Brewing Company.

The Company which runs a brewery in the name and style of 'Legacy Brewing Company'. It is in public domain that it can entertain 4000 and odd guests at any given point in time. Therefore, it is a huge brewery. The boys enter, secure seats and alleged to have consumed alcohol. The subject of the present *lis* is 15 years old boy, who could not have been allowed inside a brewery or permitted consumption of liquor or even served any liquor. The boy after consumption of liquor goes back to his house and falls from 7th floor of the apartment of the same area. It was treated as suicide and UDR No.4 of 2026 was registered. From the investigation prior to registration of UDR, it was noticed, that the boy along with other boys of the same age consumed alcohol in the petitioner's Legacy Brewing Company. The CCTV footage disclosed that the boy did consume alcohol in the brewery. The reason for his death may be manifold, including consumption of alcohol. The issue is, how a boy of 15 years old being given entry into a Legacy Brewing Company and he having consumed alcohol has gone unchecked.

8. The learned counsel for the petitioner submits that what was served to these boys were: (i) Ghee Roast Chicken; (ii) Loaded Nachos; (iii) Onion Ring; (iv) Vedica Water Bottle 1 liter and (v) Classic Ice Burst and not any liquor. The liquor was brought by them in the bag surreptitiously and have drunk. The petitioner has also placed a photograph of the CCTV footage of the boys sitting together at 18.51 hours. Therefore, the boys were in the brewery at 18.51 hours on 31-01-2026. The time at which the boys left the brewery is not known. The picture only shows that it is 18.51 hours when they were in the brewery.

9. The learned counsel for the petitioner has strenuously contended that the order of the learned Magistrate is bereft of reasons in granting permission. The first registration of crime was admittedly without any permission being taken from the hands of the learned Magistrate, notwithstanding the fact that the offences alleged were non-cognizable. This Court had quashed registration of crime on the score that no permission was taken, but liberty was reserved to the State to act in accordance with law. The order of

the Court quashing the earlier proceedings and reserving liberty reads as follows:

“ ”

10. In the light of the law being clear, the petition deserves to succeed, however, reserving liberty to the State to take action, in accordance with law.

11. For the aforesaid reasons, the following:

ORDER

- [I] Writ Petition is **allowed**.
- [II] Proceedings in Crime No.32 of 2026 pending on the file of the 46th Additional Chief Metropolitan Magistrate, Bangalore City, *qua* the petitioner stands quashed.
- [III] Liberty is reserved to the State to take action in accordance with law.”

The crime stood quashed. Liberty, as observed, was granted. The State then generates a requisition on 4-03-2026 quoting the order of this Court that the earlier requisition would be of no avail, as the crime has been quashed. The requisition reads as follows:

“ನಿವೇದನೆ:

ರಾಜರಾಜೇಶ್ವರಿನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಪಿಎಸ್‌ಐ ನವೀನ್ ಎಂ.ಎಸ್ ಆದ ನಾನು ನೀಡುತ್ತಿರುವ ವರದಿ ಎನೆಂದರೆ,

ನಾನು ರಾಜರಾಜೇಶ್ವರಿನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಪಿಎಸ್‌ಐ ಆಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಈ ದಿವಸ ಜೇಕಬ್ ಜಾನ್ ರವರು ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ತನ್ನ ಮಗನಾದ ರೆಝಾನ್ ಜೇಕಬ್ 15 ವರ್ಷ ರವರು ದಿನಾಂಕ:31.01.2026 ರಂದು ರಾತ್ರಿ ಸುಮಾರು 21:40 ಗಂಟೆಯಲ್ಲಿ ತಮ್ಮ ಹಾಲಿ ವಿಳಾಸದಲ್ಲಿ ಮಂತ್ರಿ

ಆಲ್ಟೆನ್ ಅಪಾರ್ಟ್‌ಮೆಂಟ್‌ನ 7ನೇ ಮಹಡಿಯಿಂದ ಬಿದ್ದು, ಮೃತಪಟ್ಟಿರುವುದಾಗಿ ದೂರು ನೀಡಿದ್ದು, ಸದರಿ ದೂರನ್ನು ಸ್ವೀಕರಿಸಿ ರಾಣಾ ಯು.ಡಿ.ಆರ್ ನಂ.04/2026 ಕಲಂ 194 ಬಿಎನ್‌ಎಸ್‌ಎಸ್ ರೀತ್ಯಾ ದೂರು ದಾಖಲು ಮಾಡಿ ತನಿಖೆ ಕೈಗೊಂಡಿರುತ್ತೇನೆ.

ಪ್ರಕರಣದ ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಮೃತ ರೆಯಾನ್ ಜೆಕಬ್‌ನ ಸ್ನೇಹಿತನಾದ ದ್ವಿವಿತ್‌ನನ್ನು ವಿಚಾರ ಮಾಡಲಾಗಿ, ದಿನಾಂಕ:31.01.2026 ರಂದು ಸಂಜೆ ಸುಮಾರು 18:30 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ನಾನು ಮತ್ತು ನನ್ನ ಸ್ನೇಹಿತರಾದ ರೆಯಾನ್ ಜೆಕಬ್, ಅಧರ್ವ, ಕಾರ್ತಿಕ್ ರೆಡ್ಡಿ ಇತರರು ಒಟ್ಟಿಗೆ ಸೇರಿ ಲೆಗಿಸ್ಸಿ ಬ್ರೀವಿಂಗ್ ಕಂಪನಿಗೆ ಹೋಗಿದ್ದಾಗಿ ಅಲ್ಲಿ ಮಧ್ಯಪಾನ ಮತ್ತು ಧೂಮಪಾನ ಮಾಡಿದ್ದು, ನಂತರ ರೆಯಾನ್ ಜೆಕಬ್‌ನನ್ನು ಆತನ ಹಾಲಿ ವಿಳಾಸದ ಮನೆಗೆ ಆಟೋದಲ್ಲಿ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಬಿಟ್ಟು ಬಂದಿರುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾನೆ. ಮುಂದುವರೆದು ದ್ವಿವಿತ್ ಮಾಹಿತಿ ಮೇರೆಗೆ ರಾಣಾ ಸರಹದ್ದಿನ ಲಗಿಸ್ಸಿ ಬ್ರೀವಿಂಗ್ ಕಂಪನಿಗೆ ಹೋಗಿ ಅಲ್ಲಿದ್ದ ಸಿಸಿಟಿವಿ ದೃಶ್ಯಾವಳಿಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಮೃತ ರೆಯಾನ್ ಜೆಕಬ್ ಹಾಗೂ ಆತನ ಸ್ನೇಹಿತರು ಸದರಿ ಲೆಗಿಸ್ಸಿ ಬ್ರೀವಿಂಗ್ ಕಂಪನಿಗೆ ಹೋಗಿ ಅಲ್ಲಿ ಮಧ್ಯಪಾನ ಮತ್ತು ಧೂಮಪಾನ ಮಾಡಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

ಸದರಿ ಹುಡುಗರು ಅಪ್ರಾಪ್ತ ಬಾಲಕರಾಗಿದ್ದು, ಅವರುಗಳ ವಯಸ್ಸಿನ ಬಗ್ಗೆ ಖಚಿತಪಡಿಸಿಕೊಳ್ಳದೆ ಅವರಿಗೆ ಮಧ್ಯಪಾನ/ಧೂಮಪಾನ ಮಾಡಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟು ನಿಯಮ ಉಲ್ಲಂಘನೆ ಮಾಡಿರುವ ಲೆಗಿಸ್ಸಿ ಬ್ರೀವಿಂಗ್ ಕಂಪನಿಯ ಮಾಲೀಕರು ಮತ್ತು ಸಿಬ್ಬಂದಿಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ದಿನಾಂಕ:01.02.2026 ರಂದು ನೀಡಿದ ವರದಿ ಮೇರೆಗೆ ರಾಣಾ ಮೊ.ಸಂಖ್ಯೆ.32/2026 ಕಲಂ 77 JJ ACT & 36(1)(J) KEACT ರೀತ್ಯಾ ಪ್ರಕರಣ ದಾಖಲಿಸಿ ತನಿಖೆ ಕೈಗೊಳ್ಳಲಾಗಿತ್ತು ಆದರೇ ದಿನಾಂಕ: 03.02.2026 ರಂದು ಪ್ರಕರಣದ ಎ1 ಆರೋಪಿಯಾದ ಲೆಗಿಸ್ಸಿ ಬ್ರೀವಿಂಗ್ ಕಂಪನಿಯ ಮಾಲೀಕರದ ಚಿಟ್ಟಿ ಬಾಬು ರವರು ತಮ್ಮ ವಿರುದ್ಧ ದಾಖಲಾಗಿದ್ದ ಪ್ರಕರಣದ ತನಿಖೆಗೆ ತಡೆಯಾಜ್ಞೆಯನ್ನು ನೀಡುವಂತೆ ಕೋರಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ರಿಟ್ ಪಿಟಿಷನ್ ನಂ. 3613/2026 ರಲ್ಲಿ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

ನಂತರ ದಿನಾಂಕ: 05-02-2026 ರಂದು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ರಿಟ್ ಪಿಟಿಷನ್ ನಂ. 3613/2026 ರಲ್ಲಿ ವಿಚಾರಣೆ ನಡೆದು ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶ ಮಾಡಿರುತ್ತದೆ.

ORDER

- [I] Writ Petition is allowed.
- [II] Proceeding in Crime No 32/2026 pending on the file of the 46th Additional Chief Metropolitan Magistrate, Bangalore City, qua the petitioner stands quashed.
- [III] Liberty is reserved to the State to take action in accordance with law.

ಮೇಲ್ಕಂಡ ರಿತ್ಯೆ ಎ1 ಆರೋಪಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖ-2 ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ನಡೆಸದಂತೆ ಪ್ರಕರಣವನ್ನು ವಜಾಗೊಳಿಸಿ ಆದೇಶ ಮಾಡಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಾಣಾ ಮೊ.ಸಂಖ್ಯೆ.32/2026 ಕಲಂ 77 JJ ACT & 36(1)(J) KEACT ಕೇಸಿನ ಎ1. ಆರೋಪಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ರಾಣಾ ಮೊ.ಸಂಖ್ಯೆ.32/2026 ಕಲಂ 77 JJ ACT & 36(1)(J) KEACT ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ನಡೆಸದಂತೆ ಪ್ರಕರಣವನ್ನು ವಜಾಗೊಳಿಸಿರುತ್ತದೆ. ಸದರಿ ಆದೇಶದಲ್ಲಿ Liberty is reserved to the State to take action in accordance with law ಎಂಬುದಾಗಿ ಆದೇಶ ಮಾಡಿರುವುದರಿಂದ ಅಪ್ರಾಪ್ತ ವಯಸ್ಸಿನ ಬಾಲಕರು / ಮಕ್ಕಳಿಗೆ ವಯಸ್ಸಿನ ದೃಢೀಕರಣದ ಬಗ್ಗೆ ಪರಿಶೀಲಿಸದೆ ಲೆಗಿಸಿ ಬ್ರೆವಿಂಗ್ ಕಂಪನಿಯಲ್ಲಿ ಮಧ್ಯಪಾನ ಹಾಗೂ ದೂಮಪಾನ ಮಾಡಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಿರುವ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ರೀತ್ಯಾ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ತಮ್ಮಲ್ಲಿ ಕೋರಿಕೊಳ್ಳುತ್ತೇನೆ. ಇದರೊಂದಿಗೆ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ರಿಟ್ ಪಿಟಿಷನ್ ನಂ.3613/2026ರ ಆದೇಶದ ಪ್ರತಿಯನ್ನು, ಯು.ಡಿ.ಆರ್ ನಂ.04/2026ರ ಪ್ರತಿ ಮತ್ತು ಈ ಹಿಂದೆ ದಾಖಲು ಮಾಡಿದ್ದ ರಾಣಾ ಮೊ.ಸಂಖ್ಯೆ.32/2026 ಕಲಂ 77 JJ ACT & 36(1)(J) KE ACT ಎಫ್.ಐ.ಆರ್ ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿರುತ್ತೇನೆ.

ಸಹಿ/-

(ನವೀನ್ ಎಂ.ಎಸ್) ಪಿಎಸ್

ದಿನಾಂಕ:-04-03-2026 ರಂದು ರಾಣಾ PSI ನವೀನ್ M.S ರವರು ನೀಡಿದ ಪರದಿಯ ಮೇರೆಗೆ ರಾಣಾ NCR No 79/2026 ರಲ್ಲಿ ನಮೂದುಮಾಡಿರುತ್ತೇನೆ

ಸಹಿ/-"

The requisition was to grant permission to register a crime. This is answered by the learned Magistrate on 05-03-2026 by the following order:

"NC No.79/2026
Dated: 05-03-2026

ORDER

The R.R. Nagar Police submitted requisition. Received requisition along with acknowledgment in NC No.79 of 2026 and First Information Statement through WPC No.19468 of R.R.

Nagar Police Station on 05-03-2026 at 12.00 p.m. in Open Court.

The SHO of R.R. Nagar Police has referred the First Informant to me with requisition. The First informant by name Naveen M.S., PSI, R.R. Nagara Police Station is present.

I have gone through the contents of the requisition, acknowledgment in NC No.79 of 2026 and First Information statement. Along with said documents the first informant produced the copy of order of Hon'ble High Court of Karnataka in W.P.No.3613 of 2026, wherein the earlier FIR in Crime No.32 of 2026 is quashed by the Hon'ble High Court of Karnataka. It is submitted that liberty was given to the State to take action in accordance with law. It is submitted that since the alleged offences were non-cognizable and FIR has been registered without the permission of the Magistrate, the Hon'ble High Court of Karnataka quashed the FIR. As per the said order the Hon'ble High Court of Karnataka reserved the liberty to State to take action in accordance with law. Now, the IO referred the first informant along with First Information statement and acknowledgment in NCR No.79 of 2026.

The averments of First Information statement prima facie constitute the necessary ingredients of Section 36(1) of Karnataka Excise Act and u/s 77 of JJ Act. According to the First Information statement the accused persons being the license holder against the conditions of the license sells liquor to a child who is under 18 years of age. Hence, I feel that, it is a fit case to be investigated. There is a ground to permit the Police Officer to take up the investigation for the alleged office. Hence, I proceed to pass the following:

ORDER

Acting under section 174(2) of BNSS the SHO of R.R. Nagar Police is permitted to investigate the case in accordance with law.

Issue intimation to SHO of RR Nagar Police Station."

A perusal at the earlier requisition and the present requisition bears no difference. It is verbatim similar, except quoting the order passed by this Court. The contention that the order of the learned Magistrate does not bear application of mind is also untenable, as the order of the learned Magistrate does bear application of mind, which is enough for granting permission to register a crime and take up investigation. It is not necessary that the Magistrate should undertake a roving enquiry at the time of grant of permission to register a crime. Therefore, the said submission that it bears no application of mind stands repelled.

10. The next limb of submission that falls for consideration is, whether the facts of the case would warrant investigation or otherwise. The offences alleged are the ones punishable under Section 36(1)(g) of the Excise Act and Section 77 of the Act. Section 36(1)(g) reads as follows:

"36. Penalty for misconduct of licensee, etc.- (1)
Whoever, being the holder of a licence or permit granted under this Act, or being in the employ of such holder and acting on his behalf,-

...

...

...

(g) sells or gives any intoxicant to any child apparently under eighteen years of age or permits or suffers such child or remain in or on the premises where any excisable article is sold, or manufactured; or”

Section 36(1)(g) of the Excise Act, in unmistakable terms, provides that a license holder, who sells or gives any intoxicant to a child apparently under 18 years of age or permits or suffers such child to remain in the premises where liquor and or intoxicants are sold or manufactured, renders himself liable for penal consequences. **The sweep of the provision is not confined merely to the act of sale, it extends equally to tolerance and permission, passive or active. The statutory command, is thus, both preventive and prohibitory in character. The legislative intent is clear. A licensee having been entrusted with the privilege of dealing in intoxicants bears a corresponding and higher duty of vigilance. The law casts upon him, not merely an obligation to refrain from serving minors, but also duty to ensure that minors do not remain in the premises where intoxicants are sold or manufactured.** Section 77 of the Act reads as follows:

“77. Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child.—Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or 35 tobacco products

or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.”

Section 77 of the Juvenile Justice Act is even more stringent. It declares that whoever gives or causes to be given to any child intoxicating liquor, narcotic drug, tobacco product or a psychotropic substance, except under medical prescription, the rigour of the provision is unmistakable. The protection of children from exposure to intoxicants.

11. When the order of the learned Magistrate is examined on the touchstone of whether there existed prima facie material to permit investigation, the answer is self evident. It is undisputed that the boy, aged 15 years, was present within the premises of the Brewery. The presence of alcohol in his body as disclosed by the post-mortem examination, is a matter borne out by record. Whether the intoxicated was served, facilitated, tolerated or consumed in some clandestine manner is not a question that can be

adjudicated in proceedings under Section 528 of the BNSS. It is a matter that squarely falls within the domain of investigation.

12. The very fact that boys of underage were permitted entry into a Brewery, premises dedicated to the sale and manufacture of excisable articles raises serious concerns. If it is contended that the liquor was consumed without the knowledge of the staff or management, that contention itself necessitates enquiry. It is an admitted norm that liquor from outside is not permitted within such Establishments, like that of the petitioner. If minors could carry intoxicants inside, evade detection and consume them unchecked demands scrutiny. The scrutiny - investigation. **Investigation therefore becomes imperative to ascertain how underage individuals gained entry without age verification; whether any mechanism existed to scrutinize identification of documents; whether supervisory safeguards were in place and whether statutory obligations cast upon the licensee were discharged with the vigilance the law demands.**

13. This Court cannot remain oblivious to the broader implications. **Breweries and similar Establishments, which have proliferated in urban spaces must initiate rigorous age verification protocols, be it through Aadhar or other valid identification, at threshold of entry and further verification should follow, when liquor is ordered by persons who appear youthful or underage.** The Breweries or the places where alcohol is being sold cannot be complacent. **Age verification cannot be a perfunctory ritual, it must be a living practice by display of conspicuous warnings by insistence upon documentary proof. When minors gain entry and order for intoxicants, whether overtly served or covertly consumed, the Management of such Establishments cannot show their hands off, in indifference. The protection of youth is not merely a statutory mandate, it is a moral imperative. The Managements of the places would be held accountable for any lapses.**

14. Insofar as the present case is concerned, whether the unfortunate death is casually linked to consumption of alcohol is, at

this juncture, a matter of investigation. The presence of alcohol in the body of the deceased cannot be brushed aside. The material on record discloses sufficient ground to permit investigation. This is not a case where the extraordinary jurisdiction under Section 528 of the BNSS ought to be exercised to stifle proceedings at their very inception. To interdict investigation at this stage would be premature and unwarranted.

15. For the aforesaid reasons, finding no merit in the petition, the petition stands ***dismissed***.

Interim order of any kind if operating shall stand dissolved.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT: MJ