



**IN THE HIGH COURT OF KARNATAKA
AT BENGALURU**

DATED THIS THE 16TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 6280 OF 2024

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

BETWEEN:

1. D. M. GAMING PVT. LTD.,
22, ESARES BUILDING, 80,
100 FEET ROAD, S. T. BED,
CAUVEY COLONY, KORAMANGALA,
BENGALURU - 560 034,
REP. BY ITS DIRECTOR
MUKESH CHAWLA
S/O. G. VIJAY KUMAR,
AGE ABOUT 37 YEARS,
R/AT N O7011,
PRESTIGE GARDEN,
IVRI ROAD OPP CRPF,
YELAHANKA,
BANGALORE - 64,
BANGALORE - 560 025.
2. DEEPAK JAGADISH CHAWLA,
THE MANAGER D. M GAMING PVT. LTD.,
C/O: JAGADISH KISHANDAS CHAWLA,
AGE ABOUT 46 YEARS,
R/AT NO 101, 1ST FLOOR,
ASRITHAS ULTIMATE 106,
SUBEDHAR CHATRAM ROAD,





SESHADRIPURAM,
BENGALURU NORTH - 560 020.

...PETITIONERS

(BY SRI SANDESH J. CHOUTA, ADVOCATE FOR
SRI SAMPREETH V., ADVOCATE

AND:

1. STATE OF KARNATAKA,
BY CCB BENGALURU,
REP SPP, HIGH COURT BUILDING
BENGALURU - 560 001.
2. RAJU B.
S/O. LATE BOMMEGOWDA,
AGED ABOUT 32 YEARS,
R/AT NO 20/4, 2ND CROSS,
CASHIER LAYOUT, BTM LAYOUT,
TAVAREKERE,
BENGALURU - 560 029.

...RESPONDENTS

(BY SRI JAGADEESHA B.N., SPL. PP, FOR R1)

THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO ALLOW THIS CRIMINAL PETITION. QUASH THE FIR IN CCB BENGALURU POLICE STATION AND COMPLAINT IN CR.NO.0017/2024 ON THE FILE OF I ACMM, AT ANNEXURE-A AND B REGISTERED BY THE 2ND RESPONDENT FOR THE ALLEGED OFFENCE U/S 79, 80 AND 103 OF THE POLICE ACT. AND ETC.,

THIS CRIMINAL PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

1. Heard the learned Senior Counsel Shri Sandesh J.Chouta appearing for the petitioner.

2. The issue in the lis is answered by this Court in Crl.P. No.5658/2024, disposed of on 3rd December 2024. This Court in an identical submission projected has answered the same by holding as follows:

*"9. The afore-narrated facts are not in dispute. It is not in dispute that the club of the petitioners is a recreational club in which Poker is a game inter alia that is played. When the Police more than a decade ago sought to register crimes on the score that the game of Poker would be gambling, the Indian Poker Association had approached this Court against the action of the State in interfering with the games or tournaments conducted in the respective premises where Poker was played, on the score that game of Poker was a game of skill. A coordinate Bench of this Court in **INDIAN POKER ASSOCIATION v. STATE OF KARNATAKA**¹ disposed of the petition holding as*

¹ 2013 SCC OnLine Kar 8536



follows:

"....

"6. Having already taken note of the fact that in respect of the game of poker if played as a game of skill, license is not contemplated and further keeping in view the fact that permission in this case has been obtained in that regard, certainly, the petitioner would be entitled to conduct such games, provided, the same is in accordance with law. However, it is to be clarified that, if the respondents have any definite information with regard to the illegal activities, only in such event, the respondents would be entitled to take action in accordance with law and the same shall not ordinarily be indulged in, to prevent the lawful activities of the petitioner.

7. In so far as the grievance of the petitioner with regard to the 4th respondent, I am of the opinion that the allegations as made against the 4th respondent, at this juncture need not be gone into in the instant petitions, more particularly, in the circumstance when the respondents have adverted to certain legal proceedings that have been taken by them. However, if the petitioner has any specific grievance against the 4th respondent or any other police officer who may interfere with the activities of the petitioner without authority of law, it would always be open for the petitioner to make appropriate representation to the next higher authority of the police concerned including a representation to the Commissioner of Police bringing to the notice of the higher authority the actual grievance of the petitioner against the concerned police officer. If such representation is made by the petitioner, certainly such higher authority shall look into the same as expeditiously as possible and find out if any action is required or not in that regard."

After the establishment of the petitioners' club, the



harassments alleged to have continued which drove these very petitioners to this Court in Writ Petition No.55798 of 2017. This Court, following the earlier order, disposed of the petition by the following order:

“.....

3. *The issue which has been raised in the instant petition has already been considered by this Court in **W.P.No.30071/2014 dated 15-10-2014 (The Media N Members Club vs. State of Karnataka and Others)** wherein the petition was disposed of with the following directions:-*

- “(i) The petitioner shall install within a period of six weeks, CC TV cameras, at all the places of access to its members and also at all the places, wherein games(s) is / are played by the members. The CC TV footage of atleast prior 15 days’ period shall be made available by the petitioner, to the police, as and when called upon to do so.*
- “(ii) The petitioner shall issue identity card(s) to all its member(s), which shall be produced by the member(s), when called upon by the police, during the raid(s) and surveillance etc.*
- “(iii) The petitioner shall not allow any non-member(s) or the guest(s) of the member(s), to make use of its premises for the purpose of playing any kind of game(s) or recreational activities.*
- “(iv) The petitioner shall not permit any activity by any of its member(s), by indulging in acts of amusement, falling within the definition of Ss.2(14) & 2(15) of the Act and shall not permit any game(s) of chance as per Explanation (II) of Sub-section (7) of Section 2 of Karnataka Police Act, 1963. The member(s) shall not be allowed to*



play any kind of game(s) with stakes or make any profit or gain out of the game(s) played.

- (v) *The petitioner shall put proper mechanism in place and shall ensure that no game(s) is played in any unlawful manner by the member(s). If the police find that game(s) played is contrary to any law and in violation of the settled practice, it is open to them to take action against petitioner and the offenders, in accordance with law.*
- (vi) *The jurisdictional police shall have liberty to visit premises periodically and/or on receipt of any information about any unlawful activity being carried on in the petitioner's premises.*
- (vii) *The respondents are directed not to interfere with the lawful recreational activities carried on by the members of the petitioner – Club / Association.*
- (viii) *It is made clear that this order would not come in the way of the jurisdictional police invoking the provisions of the Act and taking action in accordance with law, if the member(s) of the petitioner are found to have indulged in any unlawful or immoral activities."*

*This writ petition is also **disposed of** in the aforesaid terms."*

While disposing the petition, certain directions were issued. The directions were that club would issue identity cards to all its members and produce them as and when called upon by the police and the club should put proper mechanism in place to ensure that no games are played in any unlawful manner and the Police were permitted to conduct routine



visits. Despite this, on an allegation that the petitioners' recreation club was being repeatedly harassed by the Police, they invoked the contempt jurisdiction of this Court in C.C.C.No.894 of 2021. The contempt comes to be disposed of by the following order:

“.....

4. Sri. A.S. Ponnanna, learned Senior Counsel for complainant pointed out that this Court while disposing of the writ petition specifically instructed the police not to interfere with the lawful recreational activities carried on by the members of the petitioner-Club/Association. Thereby, the Police in the name of periodical visitation have interfered with the lawful activities of the Association. Therefore, it is a fit case to initiate contempt proceedings and sought to allow the petition.

5. Per contra, Sri. V.Sreenidhi, learned AGA reiterating the objections filed pointed out that direction Nos. 6 and 8 reads as under:

"(vi) The jurisdictional police shall have liberty to visit premises periodically and/or on receipt of any information about any unlawful activity being carried on in the petitioner's premises;

(vii) xxx xxx xxx

(viii) It is made clear that this order would not come in the way of the jurisdictional police invoking the provisions of the Act and taking action in accordance with law, if the member(s) of



the petitioner are found to have indulged in any unlawful or immoral activities."

and submits that in terms of the directions issued by this Court, jurisdictional police have liberty to visit the premises periodically and/or on receipt of any information about any unlawful activity being carried on in the petitioner's premises and has specifically invited our attention to para 5 of the objections that," respondent-Police at no point of time, have violated any law or any of the orders passed by this court. The action of the Respondent-Police is in the usual course of the Police conducting their official business to ensure that no unlawful activities are being done within the premises of the Complainant's Club." Therefore, he sought for dismissal of the contempt petition.

6. *Having heard the learned counsel for the parties, it is an un-disputed fact that, this Court while disposing of the writ petition No.55798/2017 on 13-12-2017 issued 08 directions as stated supra. Direction Nos. 6,7 and 8 should read conjointly and harmoniously. After reading the said directions, it clearly depict that the police officers/ respondents should not interfere with the lawful recreational activities carried on by the members of the petitioner's Club. At the same time, police shall have a liberty to visit the premises periodically and or on receipt of any information about unlawful activity being carried on in the petitioners' premises. This Court also made clear that the observations made or directions issued at 1 to 7 would not come in the way of the jurisdictional police invoking the provisions of the Act and taking action in accordance with law, if the members of petitioner's association found to have indulged in any unlawful or immoral activities. Therefore, the contention of the*



learned Senior counsel that this Court granted injunction restraining the accused not to interfere with the lawful recreational activities cannot be accepted. The fact remains that, if the unlawful activities carried on by the members of petitioner's association, a check is necessary, thereby, direction Nos. 7 and 8 were incorporated reserving liberty to the police.

7. The Sub-Inspector of Police, Indiranagar, has filed an affidavit on oath before this Court against oath filed by the complainant and specifically stated that allegations made in the contempt are false and Hoysala team visited the club on 25- 10-2021 only to ensure that no unlawful activities are being conducted within the premises of complainant's-Club and police have not violated any conditions of the Court. The police in usual course visited the premises. In fact, in para-3, police reiterated the action is in accordance with law to ensure that no unlawful activities are being carried out within the premises of the complainant's recreation club and thereby there is no violation made by the accused as alleged by the complainant.

8. It is made clear that the police can visit premises of the complainant's club periodically to check any unlawful activity being carried on in the premises. Merely because the present petition is filed, the police cannot take vengeance and initiate proceedings as stated in para 6 of the objections.

The Police are the protectors of law to ensure that there should not be any unlawful activities not only among the members of the Club or general public they should act like members of civilized society and they should not take vengeance.”



The Division Bench also holds that the Police can visit the premises of complainant's club periodically to check any unlawful activity. It is said that the Police did not stop interference and harassment. The petitioners' club again invokes the contempt jurisdiction of this Court in C.C.C.No.842 of 2023. Recording the submission of the Additional Government Advocate, the Division Bench disposed of the petition by the following order:

“ORDER

1. *This contempt petition is filed alleging wilful disobedience of the order dated 13.12.2017 passed by a learned Single Judge in W.P.No.55798/2017. The learned counsel for the complainant submits that the accused particularly, the police officials have closed down the premises of the complainant.*

2. *The learned Additional Government Advocate invited our attention to the affidavit dated 21.09.2023 filed by accused No.3-Sri Govardhan, Police Inspector, Indiranagar Police Station, Bengaluru and submits that the premises of the complainant is never shut off by the accused; the accused visits the premises on routine basis as directed by the learned Single Judge, vide order dated 13.12.2017 in W.P.No.55798/2017 wherein clause (vi) clearly states that the jurisdictional police is granted liberty to visit premises periodically and or on receipt of any information about any unlawful activity being carried out in the complainant's premises.*

In view of these factual aspects, in our opinion, nothing survives for consideration in the contempt petition and the same is accordingly disposed off. Notice is discharged.”



The petitioners are again back to the doors of this Court, in the subject petition, on the same song of harassment by the Police. The crime now is registered on 11-06-2024. Since the entire issue has triggered from the registration of crime, I deem it appropriate to notice the complaint. It reads as follows:

“ರವರಿಗೆ,

ಪೊಲೀಸ್ ಸಬ್ - ಇನ್‌ಸ್‌ಪೆಕ್ಟರ್,
ಇಂದಿರಾನಗರ ಪೊಲೀಸ್ ಠಾಣೆ,
ಬೆಂಗಳೂರು ನಗರ.

ಇಂದ,

ಶ್ರೀ ಸುದರ್ಶನ್ ಹೆಚ್.ವಿ ಪಿ.ಐ.
ಇಂದಿರಾನಗರ ಪೊಲೀಸ್ ಠಾಣೆ.
ಬೆಂಗಳೂರು ನಗರ.

ಮಾನ್ಯರೆ,

ವಿಷಯ:- ಇಂದಿರಾನಗರ ಠಾಣಾ ಸರಹದ್ದಿನ 80 ಅಡಿ ರಸ್ತೆಯಲ್ಲಿರುವ ನಂ:233, ಐಶ್ವರ್ಯ ಅಂಬ್ಯಾಸೆಡರ್ ಎಂಬ ಕಟ್ಟಡದಲ್ಲಿ ಟೆಲ್‌ರೂಂ ಎಂಬ ಹೆಸರಿನ ಪೋಕರ್‌ಕ್ಲಬ್‌ನಲ್ಲಿ ಅಕ್ರಮ ಜೂಜಾಟ ನಡೆಸುತ್ತಿರುವವರ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ನಾನು ಈ ದಿವಸ ದಿನಾಂಕ:11.06.2024 ರಂದು ಬೆಳಿಗ್ಗೆ 11-30 ಗಂಟೆಯಲ್ಲಿ ಠಾಣೆಯಲ್ಲಿರುವಾಗ ರೋಹಿತ್ ತಿವಾರಿ ಹಾಗೂ ಅಂಟೋನಿ ವಿನಯ್ ಕುಮಾರ್ ಹಾಗೂ ಇತರರು ಇಂದಿರಾನಗರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ 80 ಅಡಿರಸ್ತೆಯಲ್ಲಿರುವ ನಂ: 233, ಐಶ್ವರ್ಯ ಅಂಬ್ಯಾಸೆಡರ್ ಎಂಬ ಕಟ್ಟಡದಲ್ಲಿ ಟೆಲ್ ರೂಂ ಎಂಬ ಹೆಸರಿನ ಪೋಕರ್ ಕ್ಲಬ್ ಅನ್ನು ನಡೆಸುತ್ತಿದ್ದು, ಸದರಿ ಕ್ಲಬ್ ಗೆ ಕಾಲೇಜ್ ಹುಡುಗರು ಮತ್ತು ಯುವಕರನ್ನು ಹಣದ ಆಮಿಷದಿಂದ



ಆಕರ್ಷಿಸಿ, ಅವರೊಂದಿಗೆ ಸಾರ್ವಜನಿಕರನ್ನು ಸೇರಿಸಿಕೊಂಡು ಅಕ್ರಮ ಲಾಭಕ್ಕೋಸ್ಕರ ಮತ್ತು ಹೆಚ್ಚಿನ ಹಣಗಳಿಸುವ ಸಲುವಾಗಿ ಸದರಿ ಟಿಲ್ಡ್ ರೂಂ ಅನ್ನು ಜೂಜಿನ ಮನೆಯನ್ನಾಗಿ ಮಾಡಿಕೊಂಡು ಜೂಜಾಟವನ್ನು ನಡೆಸುತ್ತಿರುವ ಬಗ್ಗೆ ನನಗೆ ಭಾತ್ಯಧಾರರಿಂದ ಮಾಹಿತಿ ಬಂದಿರುತ್ತದೆ. ಅದರಂತೆ ನಾನು ಮಾಹಿತಿಯನ್ನು ಖಚಿತಪಡಿಸಿಕೊಳ್ಳಲಾಗಿ ಮೇಲ್ಕಂಡ ರೋಹಿತ್ ತಿವಾರಿ ಹಾಗೂ ಅಂಟೋನಿ ವಿನಯ್ ಕುಮಾರ್ ಹಾಗೂ ಇತರರು ಸಾರ್ವಜನಿಕರಿಗೆ ಹಣದ ಆಮಿಷ ತೋರಿಸಿ ಅವರಿಗೆ ಟಿಲ್ಡ್ ರೂಂ ಗೆ ಪ್ರವೇಶ ನೀಡಿ ಅವರಿಂದ ಆನ್‌ಲೈನ್ ಮೂಲಕ ಟಿಲ್ಡ್ ರೂಂನ ವಿವಿಧ ಅಕೌಂಟ್‌ಗಳಿಗೆ ಹಣವನ್ನು ಪಡೆದು ಕಮೀಷನ್ ಹಣವನ್ನು ಮುಂಗಡವಾಗಿ ಕಡಿತಗೊಳಿಸಿ ಹಣದ ಬದಲಿಗೆ ವಿವಿಧ ಮೌಲ್ಯಕ್ಕೆ ಟೋಕನ್‌ಗಳನ್ನು ನೀಡಿ ಇಸ್ವೀಟ್ ಎಲೆಗಳ ಮುಖಾಂತರ ಅದೃಷ್ಟದ ಜೂಜಾಟವಾಡಿಸುತ್ತ ಅದರಲ್ಲಿ ಗೆದ್ದ ವ್ಯಕ್ತಿಗಳಿಗೆ ಹಣವನ್ನು ಆನ್‌ಲೈನ್ ಮುಖಾಂತರ ಕೊಡುವುದು ಹಾಗೂ ಕಮೀಷನ್ ಹಣವನ್ನು ಟಿಲ್ಡ್ ರೂಂನ ವಿವಿಧ ಬ್ಯಾಂಕ್ ಅಕೌಂಟ್‌ಗಳಲ್ಲಿ ಪಡೆದುಕೊಳ್ಳುತ್ತಿರುವ ಬಗ್ಗೆ ಮಾಹಿತಿ ಬಂದಿರುತ್ತದೆ. ಸದರಿ ಜೂಜಾಟವನ್ನು ನಡೆಸಲು ಟೇಬಲ್‌ಗಳು, ಇಸ್ವೀಟ್ ಕಾರ್ಡ್‌ಗಳು, ಟೋಕನ್‌ಗಳು ಹಾಗೂ ಇತರೆ ಜೂಜಾಟದ ಪರಿಕರಗಳನ್ನು ಉಪಯೋಗಿಸುತ್ತಿರುವುದು ತಿಳಿದು ಬಂದಿರುತ್ತದೆ. ಸದರಿ ಜೂಜಾಟವಾಡಲು ಬರುವವರ ಆಧಾರ್ ಕಾರ್ಡ್, ಪ್ಯಾನ್ ಕಾರ್ಡ್ ಮತ್ತು ಬ್ಯಾಂಕ್ ಅಕೌಂಟ್ ನಂಬರ್ - ಗಳನ್ನು ಪಡೆದು ಗ್ರಾಹಕರ ಬ್ಯಾಂಕ್ ಅಕೌಂಟ್ ನಿಂದ ಹಣ ವರ್ಗಾವಣೆ ಮಾಡಿಕೊಳ್ಳುತ್ತಿರುವುದಾಗಿ ತಿಳಿದು ಬಂದಿರುತ್ತದೆ.

ಸಾರ್ವಜನಿಕರು ಪ್ರಮುಖವಾಗಿ ಯುವಕರು ಆನ್‌ಲೈನ್ ಮೂಲಕ ಟಿಲ್ಡ್ ರೂಂನ ಅಕೌಂಟ್ ಗೆ ಹಣವನ್ನು ವರ್ಗಾಯಿಸಿ ಅದಕ್ಕೆ ಸಮನಾದ (ಕಮೀಷನ್ ಹೊರತುಪಡಿಸಿ) ಟೋಕನ್‌ಗಳನ್ನು ಪಡೆದು. ಸದರಿ ಟೋಕನ್‌ಗಳನ್ನು ಹಣದರೂಪದಲ್ಲಿ ಆ ಟೇಬಲ್‌ಗಳ ಮೇಲೆ ಪಣವಾಗಿ ಕಟ್ಟಿ ಇಸ್ವೀಟ್ ಎಲೆಗಳ ಮುಖಾಂತರ: ಅದೃಷ್ಟದ ಜೂಜಾಟವಾಡುತ್ತಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಂಡ ಆರೋಪಿಗಳು ಪೋಕರ್ ಗೇಮ್ ಹೆಸರಿನಲ್ಲಿ ಟಿಲ್ಡ್ ರೂಂಅನ್ನು ಜೂಜಿನ ಮನೆಯನ್ನಾಗಿ ಮಾಡಿಕೊಂಡು ಸದರಿ ಜೂಜಾಟದ ಮನೆಯಲ್ಲಿ ಅದೃಷ್ಟದ ಜೂಜಾಟವಾಡುತ್ತ ಅಕ್ರಮವಾಗಿ ಹಣ ಸಂಪಾದನೆ ಮಾಡುತ್ತಿರುವುದರಿಂದ ಮೇಲ್ಕಂಡ ಆರೋಪಿಗಳು ಮತ್ತು ಜೂಜಾಟದಲ್ಲಿ ತೊಡಗಿರುವ ಹಾಗೂ ಅದಕ್ಕೆ ಸಹಕರಿಸುತ್ತಿರುವ ಆರೋಪಿಗಳ ಮೇಲೆ ಕಾನೂನು ರೀತಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಕೋರುತ್ತೇನೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸಿ,



ಸಹಿ/-

(ಸುದರ್ಶನ್ ಹೆಚ್.ವಿ)

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್,

ಇಂದಿರಾನಗರ ಪೊಲೀಸ್‌ಠಾಣೆ.

ಬೆಂಗಳೂರು ನಗರ."

This becomes the crime in Crime No.155 of 2024 for the offences punishable under Sections 79 and 80 of the Act. They are admittedly non-cognizable offences. Therefore, the nod of the learned Magistrate was necessary. The learned Magistrate has permitted registration of crime and it is only then the crime comes to be registered.

10. A perusal at the complaint would nowhere indicate that the petitioners have indulged in unlawful activities in the club. The complaint only narrates that at the time of conduct of inspection by the police what was seen was that persons who were in the club were not members of the club and tokens were taken in exchange of ₹3,000/- and certain cash of ₹9000/- was seized and from mobile phones the transaction happened for several thousands. The complaint though narrates these factors, the narration would run counter to the judgments passed by the constitutional Courts where these games of Poker and Rummy are held to be games of skill. A Division Bench of this Court in **ALL INDIA GAMING FEDERATION v. STATE OF**



KARNATAKA², holds that a game of chance and a game of skill though are not poles, but are too distinct legal concepts of constitutional significance. The distinction lies in the amount of skill involved in the games. The Division Bench observes as follows:

"... .."

7. **Note:** The collective ratio unmistakably emerging from all the decisions mentioned in paragraphs IX & X above put succinctly is : A game of chance and a game of skill although are not poles asunder, they are two distinct legal concepts of constitutional significance. The distinction lies in the amount of skill involved in the games. There may not be a game of chance which does not involve a scintilla of skill and similarly, there is no game of skill which does not involve some elements of chance. Whether a game is, a 'game of chance' or a 'game of skill', is to be adjudged by applying the **Predominance Test:** a game involving substantial degree of skill, is not a game of chance, but is only a game of skill and that it does not cease to be one even when played with stakes. As a corollary of this, a game not involving substantial degree of skill, is not a game of skill but is only a game of chance and therefore falls within the scope of Entry 34 in the State List.

In a later judgment, a Division Bench of the High Court of Allahabad in **DM GAMING PRIVATE LIMITED v. STATE OF U.P.**³ has held as follows:

"... .."

3. Learned counsel appearing for the

² 2022 SCC OnLine Kar 435

³ 2024 SCC OnLine All 5009



petitioner, to buttress his arguments, has relied upon the judgment of Hon'ble Supreme Court passed in State of Andhra Pradesh v. K.S. Sathyanarayana, AIR 1968 SC 825 as well as in the judgment of Madras High Court passed in Junglee Games India Private Limited v. State of Tamil Nadu (W.P. No. 18022 of 2020) and stated that games of Poker and Rummy are the games involving skill and not gambling. He further submits that the impugned order dated January 24, 2024 does not address any of the issues and simpliciter denies the permission for such gaming unit on the basis of surmises and conjectures that there may be possibility of peace and harmony being disrupted and gambling (jua-satta) taking place.

4. In light of the fact that gambling is prohibited, the permission was denied without going into the aspect that card games i.e. Poker and Rummy are absolutely a game of skill and not gambling.

5. Upon considering the various aspects, we are of the view that the officer concerned should look into the aspect after examining the judgments of Hon'ble Supreme Court and various High Courts on the said issue. Denial of the permission only on the basis of the clairvoyance of the officer concerned cannot be a ground that can be sustained. Hard facts are required to be brought on record by the officer to deny the permission for carrying out the recreational gaming activities.

6. Needless to mention that the permission being granted by itself would not prevent the authorities concerned to check on the aspect of gambling that may take place at a particular place and if the same



happens, necessary action under law can always be taken by the authorities.

7. In light of the above observation, the authority concerned is directed to revisit the issue and pass a reasoned order after granting an opportunity of hearing to the petitioner within a period of six weeks from date."

11. On a coalesce of the judgments rendered by the Division Bench and the coordinate Benches of this Court and the Division Bench of the High Court of Allahabad what would unmistakably emerge is, the game of Poker is a game of skill and the interference by the Police cannot lead to harassment. The Division Bench while disposing of C.C.C.No.894 of 2021 observes that the Police who are the protectors of law should ensure that there is no unlawful activities carried on, not only among the members of the club or general public, they should act like members of civilized society and should not become a tool of wrecking vengeance. Therefore, I deem it appropriate to obliterate the impugned crime finding no ingredients of Sections 79 and 80 of the Act, as held by the coordinate Benches of this Court, in the case at hand as well. However, all the directions that have been issued in the case of the petitioners from time to time, as and when they have knocked at the doors of this Court in the respective petitions, be followed in letter and spirit. No shackles can be put on the hands of the



Police not to visit the recreation club even if they are in receipt of credible information about unlawful activities in the club. Reserving their right and finding nothing of that sort at this juncture in the impugned proceedings, I pass the following:

ORDER

- (i) *Criminal Petition is allowed.*
- (ii) *The order under Section 155(2) of Cr.P.C. dated 11-06-2024 passed by the Metropolitan Magistrate, Traffic Court-I, Bangalore in NCR No.313 of 2024 and the FIR registered in Crime No.155 of 2024 stands quashed.*
- (iii) *It is made clear that all the directions issued by the respective Benches which dealt with the cases of the petitioners and the like are to be followed in letter and spirit by the petitioners."*

3. Learned Additional SPP who has appeared physically would seek to dispute the facts obtaining in the case at hand qua the application of the judgment and he does not in a position to dispute what is held by this Court in the aforesaid judgment.



4. In that light, I deem it appropriate to grant the same relief as is granted in Crl.P. No.5658/2024. For the aforesaid reasons, this Court pass the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) The FIR in CCB Bengaluru on the file of the 1st Addl. CMM Court, Nrupatunga Road, Bengaluru City and complaint in Crime No.0017/2024 at Annexures-A and B registered by the second respondent for the offences punishable under Sections 79, 80 and 103 of the Police Act stands quashed.
- (iii) It is made clear that all the directions issued by the respective Benches which dealt with the cases of the petitioners and the like are to be followed in letter and spirit by the petitioners.

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

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