NC: 2025:KHC-K:2808
CRL.RP No. 200036 of 2025

HC-KAR

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 3RD DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 200036 OF 2025

(397(Cr.PC)/438(BNSS))

BETWEEN:

1. SHAKUNTALA W/O MANIK BIRADAR,
   AGE:45 YEARS,
   OCC: AGRICULTURE AND HOUSEHOLD,
   R/O. HUNSGERA VILLAGE, TQ. HUMNABAD,
   DIST. BIDAR.

2. MANIK S/O SHIVARAM BIRADAR,
   AGE:54 YEARS, OCC: AGRICULTURE,
   R/O. HUNSGERA VILLAGE, TQ. HUMNABAD,
   DIST. BIDAR.

3. VIJAYKUMAR S/O MANIK BIRADAR,
   AGE:19 YEARS, OCC: STUDENT,
   R/O. HUNSGERA VILLAGE, TQ. HUMNABAD,
   DIST. BIDAR.

...PETITIONERS

(BY SMT. RAJESHWARI TIPPANNA, ADVOCATE)

Digitally signed by SUMITRA SHERIGAR
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA,
   THROUGH HUMNABAD POLICE STATION,
   HUMNABAD, DIST. BIDAR,
   REPRESENTED ADDL. PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   KALABURAGI.

2. GIRIJABAI W/O SHIVAPUTRA BIRADAR,
AGE:50 YEARS,
OCC: AGRICULTRURE AND HOUSEHOLD,
R/O. HUNSGERA VILLAGE, TQ. HUMNABAD,
DIST. BIDAR-585330.

…RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI K.M. GHATE, ADVOCATE FOR R2)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 438 OF BNSS, PRAYING TO ALLOW THE PRESENT REVISION PETITION AND SET ASIDE THE ORDER DATED 04.10.2024 OF DISMISSAL OF DISCHARGE APPLICATION PASSED IN S.C.NO.5001/2023 BY THE II ADDL. DISTRICT AND SESSIONS JUDGE, BASAVAKALYAN, SITTING AT HUMNABAD DIST. BIDAR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE V SRISHANANDA)

Heard Smt. Laxmi, learned counsel appearing for the petitioner, learned HCGP for the respondent No.1 and Sri. K.M.Ghate, learned counsel appearing for the de-facto complainant/respondent No.2.

2. This revision petition is filed with the following prayer:

> *"Wherefore, the Revision Petitioners prays that, this Hon'ble Court may pleased to allow the present Revision petition and set aside the order dated 04.10.2024 of dismissal of discharge application passed in S.C.No.5001/2023 by the II Additional District and Sessions Judge, Basavakalyan, sitting at Humnabad, District Bidar in the interest of justice."*

3. The facts in brief which are utmost necessary for disposal of the revision petition are as under:

A complaint came to be lodged with Humnabad Police by the respondent No.2-Girija, contending that, herself and her husband Shivaputra Biradar, were eking out their livelihood by coolie work and they have three children by name Anjaneya, Veeresh @ Ved Prakash and Bhagyashree. They had a dispute with regard to a tailed roof house with their cousin brothers. On 04.10.2022, Sri. Manik S/o. Shivaram picked up a quarrel with regard to the improper distribution of the land. After a while, wife of Sri. Manik visited the house of the complainant along with her sons

Krishna and Vijaykumar and her husband and picked up the quarrel with the family members. Her brother-in-law by name Mallikarjun tried to pacify the quarrel by saying that, it is a Dussara festival day, and they should not quarrel with each other and advised them to go away from the house. At that juncture, the second son of the complainant namely Veeresh @ Ved Prakash was sitting near the outer door of the house and the accused No.1-Shakuntala pulled the hands of Veeresh and thrown away him on a stone. Her children Krishna and Vijayakumar, kicked the son of the complainant. At that juncture, the husband of the accused No.1-Manik told the others that, the members of the family of the complainant should not be left alone and instigated others to take away the life of Veeresh @ Ved Prakash. The brother-in-law of the complainant Mallikarjun, uncle of the complainant Pundalik, and brother of the complainant Avinash tried to pacify the quarrel, at that juncture son of the accused No.1-Krishna took a knife and assaulted her younger brother.

4. Because of the assault and throwing away, the second son of the complainant became unconscious and he

was taken to the Government Hospital for treatment. The Doctors who examined the second son of the complainant declared that he is no more.

5. Based on the complaint, the Police have registered the case in Crime No.149/2022 for the offences punishable under Sections 324, 445, 504, 506 and 302 read with Section 34 of IPC and investigated the matter and filed charge-sheet.

6. The petitioners herein filed an application seeking discharge on the ground that, the death of Veeresh @ Ved Prakash took somewhere else and in order to have an upper hand in the civil dispute a false criminal case has been foisted against the petitioner. The application seeking discharge was opposed by the prosecution by filing detailed objections.

7. Learned trial Judge, after hearing the parties, dismissed the application seeking discharge of the petitioners from the criminal case. Being aggrieved by the same, the petitioners are before this Court in this revision petition.

8. Learned counsel for the revision petitioners Smt. Laxmi, vehemently contended that, on account of a civil dispute among the petitioners and the complainant party, an unnatural death of the second son of the complainant which has occurred elsewhere, has been made as a tool to foist a false criminal case against the petitioners herein, in order to take upper hand in the pending civil dispute. As such, the petitioners are innocent which has been ignored by the trial Judge while dismissing the application seeking discharge and thus sought for allow the revision petition.

9. Heard the learned counsel appearing for the petitioners, learned HCGP No.1 and Sri. K.M.Ghate, learned counsel appearing for the respondent No.2.

10. They would further contend that, the defence of innocence is to be established during the trial, after the prosecution places the cogent evidence on record.

11. They would also contend that, the charge-sheet materials in the form of postmortem report and statements of witnesses including the injured witness who is a younger

brother of the complainant, would be sufficient enough to proceed with the criminal case by framing necessary charges and therefore, sought for dismissal of the revision petition.

12. Having heard the arguments from both sides, perused the materials on record meticulously. On such perusal of the material, it is crystal clear that, there is no loss of time in approaching the police by the complainant. The incident said to have occurred on the Dussara Festival day. With a found hope that the second son of complainant would be alive, the complainant rushed to the hospital after the incident along with Mallikarjun and others. The Doctors at Government Hospital examined the young boy Veeresh @ Ved Prakash and found that, he had breathed his last, a little while ago.

13. Having noticed the same, the incident was also reported to the jurisdicational police through a medico legal case report. The police immediately arrived and took the statement of the complainant and then registered the case. The sequence of events, thus, would clearly indicate that

hardly there was any scope for the complainant to cook up a false case against the petitioners herein in order to take a upper hand in the pending civil proceedings.

14. Be it what it may. It is for the trial Court to consider these aspects during the trial. The prima-facie materials in the form of postmortem report of Veeresh @ Ved Prakash, injury certificate of brother of the complainant being the part of the charge-sheet materials apart from spot mahazar and other materials on record, would prima-facie make out a case for framing of the charges and proceeding with the trial against the petitioners.

15. The grounds urged in the revision petition are in the nature of defence which cannot be considered by this Court at this stage by holding a mini trial, as holding a mini trial is deprecated in the matter of this nature through catena of Judgments of the Hon'ble Apex Court.

16. Suffice to say that the material on record would be sufficient enough to proceed against the petitioners for the alleged offences and it is for the prosecution to establish

the case by placing cogent evidence on record and petitioners will have their chance to put up their case in the form of cross-examination to the prosecution witness and also to place such other material which are favourable to them in the trial.

17. In view of the above discussion, dismissal of the application seeking discharge by the learned trial Judge is just and proper which requires no interference, that too, in the limited scope of revisional jurisdiction. Accordingly, the following order:

ORDER

(i) The Revision petition is meritless and is hereby dismissed.

(ii) It is made clear that, the observations made by this Court during the course of this order shall not affect the rights of the parties in the pending trial, in one way or the other.

Sd/-
(V SRISHANANDA)
JUDGE

SVH
List No.: 1 Sl No.: 52
CT:PK