NC: 2025:KHC-K:1148
CRL.P No. 200807 of 2024
C/W CRL.P No. 201349 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 200807 OF 2024

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

C/W

CRIMINAL PETITION NO. 201349 OF 2024

IN CRL.P.NO.200807/2024:

BETWEEN:

1. GURUBASAPPA
   S/O MALLIKARJUN NAGOJI,
   AGE: 34 YEARS, OCC: AGRI.

2. MAHANTAPPA
   S/O MALLIKARJUN NAGOJI,
   AGE: 45 YEARS, OCC: AGRI.

3. LAXMIPUTRA
   S/O MALLIKARJUN NAGOJI,
   AGE: 45 YEARS, OCC: AGRI.

   ALL ARE R/O. BHAIRAMADAGI VILLAGE,
   TQ. AFZALPUR, DIST. KALABURAGI-585321.

...PETITIONERS

(BY SRI S. B. SANGOLAGI, ADVOCATE)

Digitally signed by SHIVAKUMAR HIREMATH
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE THROUGH
   REVOOR POLICE STATION,
   TQ. AFZALPUR, DIST. KALABURAGI,
   (REPRESENTING BY LEARNED ADDL. SPP,
   HIGH COURT OF KARNATAKA,
   KALABURAGI-585107.)

2. SIDDHAROODHA
   S/O SHIVASHARANAPPA NAGOJI,
   AGE: 30 YEARS, OCC: AGRICULTURE,
   R/O. BHAIRAMADAGI VILLAGE,
   TQ. AFZALPUR, DIST. KALABURAGI-585321.

…RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1
R2 SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C (OLD)/ U/SEC. 528 OF BNSS ACT (NEW) PRAYING TO QUASH THE CRIMINAL PROCEEDINGS PENDING AGAINST THE PETITIONERS IN C.C. NO. 1175/2022 PENDING ON THE FILE OF CIVIL JUDGE AND JMFC AFZALPUR FOR THE OFFENCES PUNISHABLE U/SEC. 504, 448,341, 506 R/W SEC. 34 OF IPC IN CRIME NO. 21/2022 REVOOR P.S TQ. AFZALPUR DISTRICT KALABURAGI.

IN CRL.P.NO. 201349 OF 2024:

BETWEEN:

1. GURUBASAPPA
   S/O MALLIKARJUN NAGOJI,
   AGE: 34 YEARS, OCC: AGRI.

2. MAHANTAPPA
   S/O MALLIKARJUN NAGOJI,
   AGE: 45 YEARS, OCC: AGRI.

3. LAXMIPUTRA

S/O MALLIKARJUN NAGOJI,
AGE: 45 YEARS, OCC: AGRI.
ALL ARE R/O. BHAIRAMADAGI VILLAGE,
TQ. AFZALPUR,
DIST.KALABURAGI.

…PETITIONERS

(BY SRI S. B. SANGOLAGI, ADVOCATE)

AND:

1. THE STATE THROUGH
REVOOR POLICE STATION,
TQ. AFZALPUR, DIST. KALABURAGI.,
(REPRESENTING BY LEARNED ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI-585107.

2. SIDDHAROODHA
S/O SHIVASHARANAPPA NAGOJI,
AGE: 30 YEARS, OCC: AGRICULTURE,
R/O. BHAIRAMADAGI VILLAGE,
TQ. AFZALPUR, DIST. KALABURAGI.

…RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1
R2 SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C.(OLD), U/S 528 OF BNSS (NEW) PRAYING TO ALLOW THE PETITION AND BE PLEASED TO QUASH THE CRIMINAL PROCEEDINGS PENDING AGAINST THE PETITIONERS CRIME NO. 55/2022 OF AFZALPUR P.S IN CC NO. 1186/2022 PENDING ON THE FILE OF CIVIL JUDGE AND JMFC AFZALPUR, FOR THE OFFENCES PUNISHABLE U/SEC. 341, 504, 506, R/W SEC. 34 OF IPC,

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

Petitioners in these two petitions are before this Court under Section 482 of Cr.P.C., with a prayer to quash the entire proceeding in C.C.No.1175/2022 arising out of Crime No.21/2022, registered for the offences punishable under Sections 504, 448, 341, 506 read with Section 34 of IPC by Revoor Police Station, Kalaburagi, and the entire proceeding in C.C.No.1186/2022 arising out of Crime No.55/2022 registered for the offences punishable under Sections 504, 341, 506 read with Section 34 of IPC by Revoor Police Station, Kalaburagi, pending before the Court of Civil Judge (Jr. Dn.) and JMFC, Afzalpur.

2. Heard the learned counsel for the petitioners and learned High Court Government Pleader for respondent No.1. Respondent No.2, who is served in both the matters, has remained unrepresented before this Court.

3. Learned counsel for the petitioners submits that, the petitioners and the respondent No.2 are family members.

Perusal of the averments made in the first information would go to show that, they have a civil dispute with regard to a family property. Subsequent to the initiation of the criminal proceeding, respondent No.2, has filed O.S.No.79/2023 before the jurisdictional Civil Court seeking decree of permanent injunction in respect of the house property regarding which there is a dispute between the family members. He submits that, respondent No.2 is in the habit of repeatedly filing false complaints and the allegations found in the first information in both the cases are verbatically similar. Since the petitioners are the members of the family who have right over the property in question, it cannot be said that, they have trespassed into the house property. Accordingly, he prays to allow the petition.

4. Per contra, learned High Court Government Pleader has opposed the prayer made in the petitions.

5. FIR in Crime No.21/2022 was registered by Revoor Police Station, Kalaburagi, against the petitioners herein for the offences punishable under Sections 504, 448, 341, 506 read with Section 34 of IPC on the basis of the

typed first information dated 26.03.2022, received from respondent No.2. The alleged incident had taken place on 17.02.2022 and after a delay of about 40 days from the date of incident, first information is submitted. In the first information it is alleged that, when the informant was in his house with his family members, the accused persons forcibly trespassed into the said house and after abusing the first informant and criminally intimidated him and his family members, while leaving the house, accused closed the doors and restrained the movements of the first informant. Similar allegation is found even in the first information dated 11.07.2022 which has resulted in registration of FIR in Crime No.55/2022 by the Revoor Police Station, Kalaburagi, against the petitioners herein.

6. Perusal of the averments made in the first information would go to show that, the parties have a dispute with regard to certain house property and accused persons allegedly had forcibly entered into the said house property and had abused and criminally intimidated the first informant and his family members.

7. Learned counsel for the petitioners has produced a copy of the plaint in O.S.No.79/2023 which would go to show that, the parties are close relatives and respondent No.2 herein claims right over the house property which is in dispute, under a oral partition and based on such contention, he has sought for a decree of permanent injunction as against Sri. Mallikarjun Nagoji who is the father of the petitioners herein. Respondent No.2 is said to be the son of the elder brother of Sri. Mallikarjun. Therefore, it is apparent that, the parties are close relatives and considering the nature of averments found in the plaint in O.S.No.79/2023, it cannot be said that, the accused persons have criminally trespassed into the house property which is the subject matter of dispute in O.S.No.79/2023. In both the cases, there is a delay in submitting the first information and in the first information submitted in Crime No.55/2022, it is stated that since there is a dispute with regard to partition of the house property, there is a delay in approaching the police.

8. From the aforesaid aspects of the matter, it can be gathered that, the dispute between the parties is

predominantly civil in nature and by giving a criminal texture to the said dispute, criminal proceedings have been initiated as against the petitioners. It is trite that, if the material on record would go to show that, the criminal proceeding is initiated by giving a criminal texture to the civil dispute, such proceedings cannot be permitted to continue. Under the circumstances, the following order:

ORDER

(i) Criminal Petitions are allowed;

(ii) The entire proceeding in C.C.No.1175/2022 arising out of Crime No.21/2022, registered for the offences punishable under Sections 504, 448, 341, 506 read with Section 34 of IPC by Revoor Police Station, Kalaburagi, and the entire proceeding in C.C.No.1186/2022 arising out of Crime No.55/2022 registered for the offences punishable under Sections 504, 341, 506 read with Section 34 of IPC by Revoor Police Station, Kalaburagi, pending before the Court of Civil Judge (Jr. Dn.)

and JMFC, Afzalpur are quashed as against the petitioners.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SVH
List No.: 1 Sl No.: 46
CT:PK