IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 13TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO.200884 OF 2024

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

BETWEEN:

1. SHABANAM NIGAR KHANAM @ SANIYA
   W/O UMAR KHAN,
   AGED ABOUT 34 YEARS, OCC: HOUSEHOLD,
   R/AT 8-15, HOUSING SOCIETY,
   UPPER MADDI SHAHABAD,
   TQ. SHAHABAD,
   DIST. KALABURAGI-585228.

2. SAJID MALIK @ SHAIK SAJID
   S/O SHAIK DAUD,
   AGE: 55 YEARS, OCC: AGRICULTURE,
   R/AT H.NO. E/55/1, NEAR MAKKA MASJID,
   SHANT NAGAR BHANKUR,
   TQ. SHAHABAD,
   DIST. KALABURAGI-585228.

...PETITIONERS

(BY SRI B. C. JAKA, ADVOCATE)

Digitally signed by SHILPA R TENIHALLI
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA THROUGH
   KALABURAGI WOMEN POLICE STATION,
   KALABURAGI,
   DIST. KALABURAGI-585102.
   NOW REPRESENTED BY
   ADDL. SPP HIGH COURT OF KARNATAKA,
   KALABURAGI BENCH-585107.

2. SMT. AMINA W/O AKHIB SHOHEL SHEKH,
AGE: 22 YEARS, OCC: HOUSEWIFE,
R/ AT NEAR UPPAR MADDI CHARCH, SHAHABAD,
NOW R/ AT RAHAMAT NAGAR, STATION AREA,
KALABURAGI-585102.

…RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1
SRI SRINIVAS B. JOSHI, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO ALLOW THE PETITION AND QUASH THE PROCEEDINGS IN CC NO.42/2024, PENDING ON THE FILE OF II ADDITIONAL JMFC AT KALABURAGI, WHICH IS REGISTERED ON THE BASIS OF CASE REGISTERED IN CRIME NO.37/2023 AND AFTER INVESTIGATION FILED CHARGE SHEET FOR THE OFFENCES PUNISHABLE U/SEC. 498-A, 323, 504, 506 R/W 34 OF IPC AND SEC. 3 AND 4 OF D.P ACT AGAINST 1ST PETITIONER AND SEC. 114 OF IPC, AGAINST 2ND PETITIONER, BY THE 1ST RESPONDENT KALABURAGI WOMEN POLICE AGAINST THE PETITIONERS, TO SECURE THE ENDS OF JUSTICE AND TO PREVENT ABUSE OF PROCESS OF THE COURT AND PASS SUCH OTHER ORDER OR ORDERS, WHICH THIS HON'BLE COURT MAY BE PLEASED TO PASS, IN THE CIRCUMSTANCES OF THE CASE.

THIS PETITION 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)

Accused Nos.3 and 4 in C.C.No.42/2024, pending before the Court of II Additional JMFC, Kalaburagi, arising out of Crime No.37/2023, registered by Kalaburagi Women Police Station, Kalaburagi, for the offences punishable

under Sections 498A, 323, 504, 506, 114 read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, (for short 'D.P.Act'), are before this Court under Section 482 of Cr.P.C. with a prayer to quash the entire proceedings in the aforesaid criminal case as against the petitioners herein.

2. Heard learned counsel for the Parties.

3. Learned counsel for the petitioners submits that accused Nos.3 is the married daughter of accused Nos.1 and 2 and she has been residing along with her husband in Yadgir district. Accused No.4 is the uncle of the first informant's husband and omnibus allegations are made against accused Nos.3 and 4. The respondent No.2 has not initiated any proceedings against her husband till date. Accordingly, he prays to allow the petition.

4. Per contra, learned High Court Government Pleader appearing for respondent No.1 and learned counsel appearing for respondent No.2/de-facto

complainant submit that after investigation, charge sheet has been filed against four persons and there is material to prosecute accused Nos.3 and 4 for the charge sheeted offences and even they have abused and tortured respondent No.2 in her matrimonial house. Accordingly, they pray to dismiss the petition.

5. Perusal of the material on record would go to show that marriage of respondent No.2 with Akhib Shohel Shekh, who is the son of accused Nos.1 and 2 and brother of petitioner No.1 herein was performed on 18.02.2021 and as per the first informant, at the time of marriage, her parents had given dowry to her husband. Allegation in the first information is that after marriage, her husband had left her in his house and had gone abroad to work. He had thereafter not returned and had failed to maintain her. The accused persons have been torturing her in her matrimonial house and demanding to bring a sum of Rs.5,00,000/- as additional dowry. In the complaint, she has alleged that on 21.06.2023, she was abused and

assaulted by the accused persons in her matrimonial house and therefore, she had returned to her parents' house. However, first information has been belatedly filed after a period of four months and no proper explanation is given for the inordinate delay of nearly four months in approaching the police. Even otherwise, material on record would go to show that accused No.3/petitioner No.1 is the married daughter of accused Nos.1 and 2 and learned counsel for the petitioners has produced necessary documents before this Court, which prima facie reveal that accused No.3 is presently residing at Shorapur of Yadgir district, whereas accused Nos.1 and 2, who are the parents of the husband of the first informant are residing at Kalaburagi and accused No.4 is said to be the uncle of the first informant's husband and only allegation as against him is that he had instigated accused Nos.1 to 3 to harass the first informant. Even accused No.4 is not residing along with accused Nos.1 and 2, with whom the first informant was residing after her husband had gone abroad. The specific allegation of the first informant is

that she was being abused and tortured in her matrimonial house at Kalaburagi after her husband had gone abroad. Accused Nos.3 and 4 are not residing with accused Nos.1 and 2 and the material on record would also go to show that omnibus allegation of ill-treating and torturing the first informant is made against these petitioners/accused Nos.3 and 4. It is also not in dispute that till date, the first informant has not initiated any proceedings as against her husband, though she has been alleging that he has failed to maintain her after having gone abroad. The first information and other material available on record would go to show that the first informant has not given the particulars of any specific incident wherein allegedly the petitioners herein had ill-treated in her matrimonial house.

6. Under the circumstances, I am of the opinion that continuation of impugned criminal proceedings as against the petitioners herein on the basis of the charge sheet material would amount to abuse of process of law and to secure the ends of justice, it is necessary to quash

the impugned criminal proceedings as against them. Accordingly, following order is passed:

ORDER

The criminal petition is allowed.

The entire proceedings in C.C.No.42/2024, pending before the Court of II Additional JMFC, Kalaburagi, arising out of Crime No.37/2023, registered by Kalaburagi Women Police Station, Kalaburagi, for the offences punishable under Sections 498A, 323, 504, 506, 114 read with Section 34 of IPC and Sections 3 and 4 of D.P.Act, as against the petitioners/accused Nos.3 and 4 stands quashed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SRT
List No.: 1 Sl No.: 29
CT:PK