IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 201383 OF 2023

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

BETWEEN:

1. SHAFI KHURESHI S/O SHAREEF KHURESHI,
   AGE: 39 YEARS, OCC: AGRICULTURE,
   R/O H.NO.2-231/1 KARNAAKA COLLEGE ROAD,
   RAJA BAGH, MUSTAIDAPUR,
   BIDAR-585401.

2. HAFEEZ KHURESHI S/O SHAREEF KHURESHI,
   AGE: 32 YEARS, OCC: AGRICULTURE,
   R/O. H.NO.2-231/1 KARNAAKA COLLEGE ROAD,
   RAJA BAGH, MUSTAIDAPUR,
   BIDAR-585401.

3. MEERAJ KHURESHI S/O SHAREEF KHURESHI,
   AGE: 42 YEARS, OCC: AGRICULTURE,
   R/O. H.NO.2-231/1 KARNAAKA COLLEGE ROAD,
   RAJA BAGH, MUSTAIDAPUR, BIDAR-585401.

...PETITIONERS

(BY SMT. HEMA L KULAKARNI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   THROUGH GANDHI GUNJ PS
   DIST. BIDAR
   THROUGH THE ADDL. SPP,
   HIGH COURT OF KARNATAKA
   AT KALABURAGI BENCH -585107.

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

2. MOHAMMED SHAFIUDDIN
S/O MOHAMMED SIRAJUDDIN,
R/O. MAILOOR VILLAGE, BIDAR-585401.

…RESPONDENTS

(BY SMT. MAYA T.R., HCGP FOR R1
SRI S. R. KADLOOR AND
SRI VADIRAJ KADLOOR, ADVOCATES FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO I) QUASH THE FIR IN CR.NO.8/2023 FOR THE OFFENCES PUNISHABLE U/SEC. 448, 354, 323, 504, 506 R/W SEC. 34 OF IPC, BY THE RESPONDENT GANDHI GUNJ P.S. BIDAR WHICH IS PENDING ON THE PRINCIPAL 2ND JMFC COURT BIDAR AND THE ENTIRE PROCEEDINGS INITIATED ON THE BASIS OF THE FIR IN CR.NO.8/2023 AS PER ANNEXURE - A AND B MAY BE QUASHED. II) ISSUE ANY DIRECTIONS OR ORDERS AS THIS HON'BLE COURT DEEMS FIT IN CIRCUMSTNACES OF 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)

1. The accused Nos.1, 3 and 4 in Crime No.8/2023 registered by Gandhi Gunj Police Station, Bidar district, for the offences punishable under Section 448, 354, 323, 504, 506 read with Section 34 of IPC., are before this Court under Section 482 of Cr.P.C., with a prayer to quash the entire proceedings in the said case as against the petitioners herein.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.8/2023 was registered by the Gandhi Gunj Police Station, Bidar district, for the aforesaid offences against Sri. Shafi Khureshi and three others on the basis of the first information dated 17.01.2023 received from Mohammed Shafiuddin S/o. Mohammed Sirajuddin who is the respondent No.2 herein. Challenging the same, accused Nos.1, 3 and 4 in the FIR are before this Court in this petition filed under Section 482 of Cr.P.C.

4. Learned counsel for the petitioners having reiterated the grounds urged in the petition submits that, there is a civil dispute between the parties and suit O.S.No.9/2020 is filed before the jurisdictional Civil Court at Bidar and in the said suit, an order of injunction is operating, thereafter, a false complaint has been lodged against the petitioners herein alleging trespass into the property which is the subject matter of the suit in O.S.No.9/2020, only with an intention to harass and coerce the petitioners. She submits that, continuation of the impugned criminal proceedings would amount to abuse of process of law. Accordingly, she prays to allow the petition.

5. Per contra, learned High Court Government Pleader appearing for respondent No.1 and the learned counsel for the respondent No.2, who has filed statement of objections have opposed the petition.

6. Learned counsel for the respondent No.2 submits that, the mother of the respondent No.2 herein had filed O.S.No.210/2012 against one Ismail Khureshi and others and a decree of injunction has been granted in the said suit in favour of the plaintiff. For violating the decree of injunction granted in O.S.No.210/2012, the defendant No.1 – Ismail Khureshi was punished and sent to civil imprisonment and in the said proceedings, the petitioner No.2-Hafeez Khureshi was a surety for Ismail Khureshi. Therefore, Hafeez Khuresh is very well aware of the decree passed in O.S.No.210/2012. He submits that, a similar complaint was filed earlier in Crime No.147/2021 and in the said case, charge-sheet has been filed and the accused therein are now being tried in C.C.No.3712/2022. The petitioner Nos.1 and 2 herein are accused facing trial in C.C.No.3712/2022 for the offences punishable under Sections 427, 447, 448, 504, 506 and 149 of IPC and in spite of the

same, they have repeated the alleged offences. Accordingly, he prays to dismiss the petition.

7. It is the contention of the learned counsel for the petitioners that, there is a civil dispute between the parties and O.S.No.9/2020 is filed before the jurisdictional Civil Court in which there is an order of injunction operating in favour of the plaintiff. A perusal of the material available on record would go to show that, one Mohammed Yousuf Khureshi is the plaintiff in O.S.No.9/2020 and the accused in the present case are not even parties to the said suit. Even if there is any order of injunction operating in O.S.No.9/2020, the said order of injunction will be binding only on the parties to the suit in O.S.No.9/2020. The petitioners herein are not parties to the said suit. On the other hand, respondent No.2 along with statement of objections has produced decree in O.S.No.210/2012. The mother of the respondent No.2 Smt. Ayesha Begum is the plaintiff in the said suit and one Sri. Ismail Khureshi and two others are the defendants in the said suit. The said suit has been decreed and a decree of injunction is operating in favour of the plaintiff in O.S.No.210/2012 and it is brought to the notice of this Court, for having violated the

decree of permanent injunction granted in O.S.No.210/2012, the Defendant No.1 Ismail Khureshi was punished and he was sent to civil imprisonment. Learned counsel for the respondent No.2 has also brought to the notice of this Court that, the petitioner No.2 had stood as a surety to Ismail Khureshi in the said case, therefore, it is apparent that, the petitioner No.2 Hafeez Khureshi is well aware of the decree passed in O.S.No.210/2012.

8. Learned counsel for the respondent No.2 has also produced the charge-sheet in Crime No.147/2021 which would to show that, the petitioner Nos.1 and 2 herein were also charge-sheeted for the offences punishable under Sections 448, 427, 447, 504, 506 and Section 149 of IPC. The petitioner Nos.1 and 2 herein are now being tried in C.C.No.3712/2022 before the jurisdictional Court which arises out of Crime No.147/2021. Merely for the reason that, there is some civil dispute in respect of certain property, the same cannot be a ground to interfere with the criminal proceedings initiated alleging cognizable offences. Accused persons herein have committed similar offences even earlier and they have been charge-sheeted for the similar offences for having committed in

respect of the very same property and the material on record would go to show that, in an earlier suit filed, a decree of injunction has been granted in favour of the mother of the first informant herein. The Hon'ble Supreme Court in the case of ***Kamaladevi Agarwal Vs. State of W.B and others,*** reported in ***(2002) 1 SCC 555***, has observed that, merely for the reason that there are certain civil disputes pending between the parties, the same cannot be a ground for interfering with the criminal proceedings if it is otherwise found that prima-facie case is found as against the accused persons. The Hon'ble Supreme Court in the case of ***Skoda Auto Volkswagen (India) vs. State of Uttar Pradesh and others*** reported in ***(2021) 5 SCC 795*** and in the case of ***M/s. Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others*** reported in ***AIR 2021 SC 1918*** has laid down the guidelines for exercising powers under Section 482 of Cr.P.C., when a prayer is made to interfere with the investigation of the criminal case and in the background of the said guidelines, I am of the opinion that, it is not a fit case wherein, inherent powers under Section 482 of Cr.P.C., is required to be exercised for

scuttling the investigation in a criminal case registered for the cognizable offences. Accordingly, the following order:

ORDER

The criminal petition is ***dismissed.***

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SVH
List No.: 1 Sl No.: 30
CT:PK