IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 6TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL REVISION PETITION NO.200171 OF 2024

BETWEEN:

1. ANEEL @ ANILKUMAR
   S/O MANNU @ MANOHAR PAWAR,
   AGE: 32 YEARS, OCC: PRIVATE WORK,
2. KIRAN @ KIRAN KUMAR
   S/O MANNU @ MANOHAR PAWAR,
   AGE: 38 YEARS, OCC: PRIVATE WORK,
   BOTH ARE R/O. KURUKUMBALA TANDA,
   TQ. AND DIST. YADGIRI-585201.

...PETITIONERS

(BY SRI CHAITANYAKUMAR C.M., ADVOCATE)

Digitally signed by SHIVAKUMAR HIREMATH
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
   THROUGH YADGIRI RURAL P.S.,
   DIST. YADGIRI-585201.
   REPRESENTED BY ADDL. SPP,
   HIGH COURT OF KARNATAKA,
   KALABURAGI BENCH-585107.

2. AKASH S/O HARICHANDRA PAWAR,
   AGE: 25 YEARS, OCC: STUDENT,
   R/O. KURUKUMBALA TANDA,
   TQ. AND DIST. YADGIRI-585201

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1)

THIS CRL.RP IS FILED U/S 397 (1) OF CR.P.C (OLD), U/SEC. 438 OF BNSS (NEW), PRAYING TO SET ASIDE THE ORDER DATED 27.08.2024 PASSED BY THE LEARNED DISTRICT AND SESSIONS JUDGE AT YADGIR IN S.C.NO.84/2022 CONSEQUENTLY BE PLEASED TO ALLOW THE ABOVE REVISION PETITION AND DISCHARGE THE PETITIONER FROM THE ALLEGED OFFENCE.

THIS PETITION COMING ON FOR ORDERS, 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 are before this Court in this criminal revision petition filed under Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS, 2023), challenging the order dated 27.08.2024, passed by the Court of District and Sessions Judge, Yadgir in S.C.No.84/2022, wherein, the application filed by the petitioners under Section 227 of Cr.P.C. read with Section 250 of BNSS, 2023, seeking discharge has been dismissed.

2. Heard learned counsel for the petitioners and learned High Court Government Pleader appearing for respondent No.1.

3. Learned counsel for the petitioners having reiterated the grounds urged in the petition submits that there is a civil dispute between the parties and therefore a false complaint has been filed, implicating even the petitioners for the alleged offences. He submits that initially FIR was registered in the present case only for the offences punishable under Sections 341, 323, 504, 506 read with Section 149 of IPC and subsequently charge sheet has been filed for the offence punishable under Section 302 of IPC. The allegation as against the petitioners is that they were present along with other accused persons and no specific overt-acts are alleged against them. Therefore, the Trial Court was not justified in dismissing the application filed by the petitioners seeking discharge. Accordingly, he prays to allow the revision petition.

4. Learned High Court Government Pleader appearing for respondent No.1 has opposed the prayer made in the petition and has argued in support of the impugned order.

5. Charge sheet has been filed in the present case against 12 accused persons and in the charge sheet, it is alleged that there was a dispute between two parties in respect of property bearing Survey No.18/3. It is in this background, accused No.1 allegedly conspired with accused Nos.2 to 12 to commit the murder of deceased Shantibai and CW.-8/Harishchandra. In furtherance of such conspiracy, on 30.01.2022, accused No.1 had summoned said Shantibai and CW.8/Harishchandra and accordingly they had arrived to his house in the motorcycle of CW.9. At about 11.30 a.m. on the said date, accused No.1 allegedly abused CW.8 and Shantibai by using filthy language and threatened them with dire consequences. The deceased Shantibai retaliated and stated that in the event there was no partition in the family property, she

would file a case. Therefore, accused Nos.1 to 12 allegedly started assaulting CW.8 and deceased Shantibai and they made Shantibai to consume insecticide forcibly.

6. It is alleged that accused No.3 had caught hold of the neck of deceased while accused No.4 poured the insecticide into her mouth. CW.1 who rescued Shantibai immediately shifted her to hospital, but she subsequently died on 03.02.2022. The first information in the present case was submitted by the son of the deceased, who is a hearsay witness. During the course of investigation, the police have recorded further statement of the de-facto complainant – CW.1 and also the statement of other witnesses, who have spoken to of the alleged act committed by the accused persons. The postmortem report of deceased Shantibai would go to show that death was due to cardio pulmonary arrest as a result of unknown compound poisoning with evidence of pressure over neck. The opinion expressed in the postmortem report as to the

cause of death prima facie supports the allegation found in the charge sheet.

7. The presence of the petitioners herein, who are arrayed as accused Nos.3 and 4 at the spot of crime is spoken to by the charge sheet witnesses and therefore, it cannot be said that there is absolutely no material to prosecute the petitioners for the charge sheeted offences. The charge sheet is filed in the present case invoking the offence punishable under Section 149 of IPC. The Trial Court having appreciated all these aspects of the matter has rightly rejected the application filed by the petitioners under Section 227 of Cr.P.C. read with Section 250 of BNSS, 2023. It is trite that at this stage, the Courts cannot hold a mini trial and record a finding.

8. Under the circumstances, the petition does not merit consideration and accordingly, the same is dismissed.

In view of disposal of main petition, pending application, if any, stands disposed off.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SRT
List No.: 1 Sl No.: 13
CT:PK