IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 26TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 101874 OF 2023

BETWEEN:

1. SULEMAAN S/O SAIFUDDIN SHAIKH,
   AGE. 39 YEARS, OCC. BUSINESS,
   R/O. GANDHI NAGAR, DANDELI,
   DIST. UTTAR KANNADA-581325.

2. RUMAAN W/O SULEMAN SHAIKH,
   AGE. 36 YEARS, OCC. HOUSE WIFE,
   R/O. GANDHI NAGAR, DANDELI,
   DIST. UTTARA KANNADA-581325.

... PETITIONERS

(BY SRI. A.A. PATHAN, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   (THROUGH P.I. DANDELI POLICE STATION),
   BY H.C.G.P. HIGH COURT BENCH,
   DHARWAD HIGH COURT BUILDING
   BENCH, DHARWAD.

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2. FARATH AFREEN W/O FAZLUR REHAMAN QUADRI,
   AGE. 36 YEARS, OCC. HOUSE WIFE,
   R/O. GANDHI NAGAR, DANDELI,
   DIST. UTTARA KANNADA-581325.

... RESPONDENTS

(BY SRI. PRAVEEN K. UPPAR, AGA FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO CALL FOR RECORDS IN C.C.NO.25/2023 PENDING ON THE FILE OF LEARNED CIVIL JUDGE AND J.M.F.C. COURT DANDELI, UTTAR KANNADA AND QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.25/2023 PENDING ON THE FILE OF LEARNED CIVIL JUDGE AND J.M.F.C. COURT DANDELI, UTTAR KANNADA FOR THE ALLEGED OFFENCE P/U/SEC. 354(B), 506, 504 R/W 34 OF I.P.C. AGINST THE PETITIONERS.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioners –accused Nos.1 and 2 have sought for quashing of proceeding in C.C.No.25/2023 pending on the file of the Civil Judge and JMFC, Dandeli registered for offence punishable under Sections 354-B, 506,504 read with Section 34 of Indian Penal Code (hereinafter referred as 'IPC' for brevity)

2. Heard learned counsel for petitioners and learned High Court Government Pleader for respondent No.1-State. Inspite of service of notice, respondent No.2 remained absent and unrepresented.

3. Respondent No.2 has filed a complaint and same came to be registered in crime No.119/2022 of the Dandeli Town Police Station for offences punishable under Sections 354-B, 506, 504 read with Section 34 of IPC. The Police after investigation have filed charge sheet against these petitioners for offence punishable under

Sections 354-B, 506, 504 read with Section 34 of IPC. Based on the said charge sheet, the case came to be registered in C.C.25/2023 pending on the file of the Civil Judge and JMFC, Dandeli. The proceedings of the said criminal case are sought to be quashed.

4. Learned counsel for the petitioner would contend that petitioner No.1 has filed a suit against husband of respondent No.2 and brother in law of respondent No.2 in O.S.153/2021 and order of temporary injunction has been granted in the said suit by order dated 13.12.2022. He contends that defendant No.2 trespassed in the suit schedule property and damaged it, in that regard, the complaint came to be filed and case came to be registered in crime No.118/2022 against the husband of the respondent No.2 for offence punishable under Sections 427, 506, 504, 442 of IPC. He contends that complaint came to be registered by respondent No.2 in crime No.119/2022 against the petitioners for alleged incident dated 29.09.2022 taken place at 11.00a.m. He

contends that charge sheet filed in the said crime and case of the prosecution is based on three eye witnesses i.e.C.W.4 to 6 who are none other than wife of defendant No.1 in O.S.No.153/2021 and the relatives of respondent No.2. He contends that the said proceedings against the petitioners are abuse of process of law, and prayed to quash the proceedings.

5. Per contra, learned AGA submits that the incident in crime No.119/2020 has taken place at 11.00a.m. and thereafter, incident in crime No.118/2020 has taken place at 12.30 noon and may be there is delay in filing the complaint by respondent No.2. He contends that on perusal of charge sheet materials C.W.4 to 6 are eye witnesses who have seen the said incident, their statement cannot be discarded at this stage on the ground that they are relatives of the respondent No.2. Charge sheet materials shows prima facie case against these petitioners for offences alleged against them. There are

no grounds for quashing the proceedings. With this, he prayed for dismissal of the petition.

6. Having heard learned counsels, this Court has perused the records.

7. There is civil dispute pending between petitioner No.1 and the husband of the respondent No.2 and another in O.S.No.153/2021 on the file of Civil Judge and JMFC, Dandeli. As per FIR registered in crime No.118/2022 and crime No.119/2022 two incidents have taken place. The incident in Crime No.119/2022 has taken place at 11.00a.m on 29.09.2022 and incident in crime No.118/2022 has taken placed at 12.30 noon on 29.09.2022. On perusal of the FIR in crime No.119/2022 the incident has taken place at 11.00a.m. on 29.09.2022 which is prior to the incident taken place in crime No.118/2022. On perusal of the charge sheet filed in crime No.119/2022 there are three eye witnesses have seen the said incident namely C.W.4 to 6. C.W.4 to 6 in their statement have specifically stated alleged acts of

these petitioners. Merely because C.W.4 to 6 are relatives of respondent No.2, at this stage the proceedings against petitioners cannot be quashed on that ground. It is submitted that charge sheet is also filed in crime No.118/2022 and case came to be registered against the husband of respondent No.2.

8. Considering above aspects, at this stage it cannot be said that the proceedings in C.C. No.25/2023 are abuse of process of law.

In the result, the petition is ***dismissed.***

Sd/-
JUDGE

DSP
CT:BCK
List No.: 1 Sl No.: 22