IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH

DATED THIS THE 25TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.200011 OF 2023

BETWEEN:

1. SYED TOUSEEF KHADRI
S/O SYED MUSTAFA KHADRI,
AGE: 36 YEARS, OCC: BUSINESS,
R/O H.NO.6-2-127, NEAR KHADRI MASJID,
KHADER GUNDA, RAICHUR.

2. SYED MUSTAFA KHADRI
S/O SYED AREEFUDDIN,
AGE: 66 YEARS, OCC: BUSINESS,
R/O H.NO.6-2-127, NEAR KHADRI MASJID,
KHADER GUNDA, RAICHUR.

3. SMT. JEENATH KHAMAR W/O DAVUD PASHA,
AGE: 61 YEARS, OCC: HOUSEWIFE,
R/O H.NO.6-2-127, NEAR KHADRI MASJID,
KHADER GUNDA, RAICHUR.

Digitally signed by LUCY GRACE
Location: High Court of Karnataka

4. SMT. SYEDA AFAROZ KHAMAR W/O SYED IMTIYAZ,
AGE: 29 YEARS, OCC: HOUSEWIFE,
R/O H.NO.6-2-127, NEAR KHADI MASJID,
KHADER GUNDA, RAICHUR.

5. SYED MUSTABA KHADRI S/O SYED MUSTAFA KHADRI,
AGE: 28 YEARS, OCC: BUSINESS,
R/O PUNE MAHARASHTRA AND ALSO
H.NO.6-2-127, NEAR KHADRI MASJID,
KHADER GUNDA, RAICHUR.

...PETITIONERS

(BY SRI. SHIVANAND PATIL & VARUN PATIL, ADVOCATES)

AND:

1. THE STATE BY MAILA (WOMENS) P.S.,
   THROUGH PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   KALABURAGI BENCH - 585 103.

2. SMT. SYEDA ASIYA FATIMA
   W/O SYED TOUSEEF KAHADRI,
   AGE: 31 YEARS, OCC: HOUSEWIFE,
   R/O H.NO.2-6-55, ANDROON QUILLA,
   TIPPU SULTAN ROAD, RAICHUR - 584 101.

...RESPONDENTS

(BY SRI SHARANABASAPPA M. PATIL, HCGP FOR R1;
NOTICE TO R2 - SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. BY THE ADVOCATE FOR THE PETITIONER, PRAYING TO ALLOW THE PETITIONER AND QUASH THE PROSECUTION PROCEEDINGS IN C.C.NO.4096/2022 ON THE FILE OF II ADDL. CIVIL JUDGE AND JMFC-IV, RAICHUR, ARISING OUT OF CR.NO.0011/2022 OF THE WOMEN P.S., RAICHUR FOR THE OFFENCES PUNISHABLE U/S 498A, 323, 504, 506, 342 AND 34 OF IPC AND SECTION 4 OF THE DOWRY PROHIBITION ACT.

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

ORDER

1. Petitioners have been charge sheeted for the offences punishable under Sections 498A, 323, 504, 506, 342 R/w Section 34 of IPC and Section 4 of the Dowry Prohibition Act, 1961.

2. The summary of the charge sheet is that, the De-facto complainant is the legally wedded wife of accused No.1,

accused Nos.2 and 3 are the parents-in-law, accused No.4 is the sister-in-law and accused No.5 is the brother-in-law of the De-facto complainant and they subjected her to cruelty both physically and mentally and also assaulted her. The De-facto complainant has filed a petition under Section 125 of Cr.P.C., claiming maintenance from accused No.1 in Crl. Misc. No.107/2020. On 02.02.2022, accused No.1 assaulted De-facto complainant with his hands and by catching hold of her neck threatened her with dire consequences. The accused threatened the De-facto complainant to bring money from her parental home, failing which they would take away her life and accused Nos., 5 and 6 locked her in a room and she escaped from the western side of the house.

3. The learned Magistrate, after accepting the charge sheet has taken cognizance and issued summons. Taking exception to the same, this petition is filed.

4. Heard the learned counsel for the petitioners and the leaned High Court Government Pleader for respondent No.1-State.

5. Respondent No.2 though served with notice, has not chosen to appear in person or through her counsel.

6. The De-facto complainant has filed a petition under Section 125 of Cr.P.C., claiming maintenance from accused No.1 in Crl. Misc. No.107/2020. In the said proceedings, the De-facto complainant was cross-examined by accused No.1,

and in the said cross-examination dated 21.07.2022, the De-facto complainant has specifically stated that accused No.1 after closing the business has shifted to Bengaluru and carrying on the business in dry fruits. In the cross-examination dated 28.07.2022, the De-facto complainant has specifically stated that since 2019 she is residing in her parental home. The De-facto complainant having categorically admitted that she is staying separately in her parental home since 2019, lodged the FIR on 06.02.2022 alleging the incident that has taken place after 2019. The De-facto complainant has not offered any acceptable explanation for delay in lodging the FIR with regard to the allegation prior to her residing separately in her parental home.

7. In view of the proceeding analysis, I am of the view that the FIR was lodged by the second respondent with an ulterior motive to wreak vengeance and with revengeful intent and the dispute between the parties arises out of marital discord. Hence, continuation of the criminal proceedings against the petitioners - accused Nos.1 to 3 and 4 & 5 will be an abuse of process of law, since the probability of their conviction is remote and bleak. Accordingly, I pass the following:

ORDER

i) Criminal petition is allowed.

ii) The impugned proceedings in C.C.No.4096/2022 on the file of II Addl. Civil Judge and JMFC-IV, Raichur arising

out of Crime No.0011/2022, registered by the Women Police Station, Raichur, for the offences punishable under Sections 498A, 323, 504, 506, 342 R/w Section 34 of IPC and Section 4 of the Dowry Prohibition Act is hereby quashed.

Sd/-
JUDGE

LG
List No.: 1 Sl No.: 40