HC-KAR
NC: 2026:KHC:62398
CRL.P No. 2685 of 2021
CNR: KAHC010137042021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2685 OF 2021

BETWEEN:

1. KUNAL TULSIYAN/SWETHAMBARAS
   S/O TULASIAN SHYAM SUNDER
   AGE ABOUT 35 YEARS.

2. NISHA TULASIAN
   W/O TULASIAN SHYAM SUNDER
   AGE ABOUT 60 YEARS.

3. SHYAM SUNDER TULASIAN
   S/O JAGAMOHAN TULASIAN
   AGED ABOUT 62 YEARS.

   ALL ARE R/AT GOKULDHAM
   No.4975, 3RD MAIN
   2ND CROSS, S S LAYOUT
   B BLOCK, SOUTHERN EXTENSION
   DVG, DAVANGERE – 577004.

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. VISHNUMURTHY, ADV.)

AND:

1. STATE OF KARNATAKA
   BY WOMEN'S POLICE STATION
   DAVANAGERE
   REP BY SPP HIGH COURT OF
   KARNATAKA
   BANGALORE -560001.

2. SMT. MADHUSRI
D/O UTTAM CHAND R. JAIN
AGED ABOUT 31 YEARS
R/AT No.69, "MANMADHU"
A V K COLLEGE ROAD
P J EXTENSION
DAVANGERE - 577002.

…RESPONDENTS

(BY SRI. M. DIVAKAR MADDUR, HCGP FOR R1
SRI. V.B. SIDDARAMAIAH, ADV., FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO QUASH THE FIR REGISTERED IN CR.NO.119/2020 FOR AN OFFENCE P/U/S 498A, 504, 323 R/W 34 OF IPC AND SEC.4 OF D.P. ACT AND U/S 3(1)(r)(s)(w) OF SC/ST ACT OF WOMEN P.S., DAVANAGERE PENDING ON THE FILE OF THE LEARNED 2ND ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE & ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

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

2. The prayer is sought for quashing FIR registered in Crime No.119/2020 for the offence punishable under Sections 488A, 504 and 323 read with Section 34 of IPC, Section 4 of Dowry Prohibition Act, 1961 and so also Sections 3(1)(r), 3(1)(s) and 3(1)(w) of SC and ST (Prevention of Atrocities) Act, 1989 ('the SCST Act' for short).

2. The main accusation made in the complaint against the petitioners is that marriage of petitioner No.1 and complainant was solemnized 7 years ago. As a result, she became pregnant and both of them lived together for a period of 5 years without any harassment and she gave birth to a child Vivan. When she was sent to delivery, her husband did not turn up and so also, their family members. When she tried to contact them over phone, they did not receive the phone call and blocked her phone number and she went to the house to verify the same, but they locked the house, even though they were in the house and someone came and told that they are not in the house. On 05.11.2020, again she went to the house to ask her husband and in-laws and at that time, he declared that already he got the divorce and why she came and abused

in filthy language and held her hair, abused and assaulted and when she questioned the same, again abused in filthy language and questioned the paternity of the child and pushed her from the house holding her hair and also abused taking her mother's caste name as Nayaka i.e., (ST community) and father’s caste name as ‘Jain’ and questioned to which community she belongs and abused in filthy language taking her caste name. Hence, action is sought based on the complaint and on the complaint, the above offences are invoked and matter is under investigation.

3. Learned counsel appearing for the petitioners would submit that already divorce was granted in favour of petitioner No.1-husband and petitioner Nos.2 and 3 are the parents of petitioner No.1 and the very complaint itself disclose that they lived happily for a period of 5 years and according to the complainant, dispute arose only after she gave birth to a child and no such allegation during her stay abusing her taking caste name and only with an intention to bring the petitioners in a criminal case, false allegations are made and no such incident has taken place and the same is also within the four walls i.e.,

in the house of the accused. Hence, it will not attract Special enactment. Apart from that, afterthought, the present complaint is filed and it will not attract the offences under Section 504 of IPC or any other offences. Hence, it is a fit case to exercise the power under Section 482 of Cr.P.C.

4. Learned counsel appearing for respondent No.2-complainant would submit that M.C.No.203/2019 is very clear that no notice was served on the complainant and an ex-parte order was obtained. Hence, an appeal is filed before this Court i.e., M.F.A.No.7350/2019 and the contention that already divorce was granted cannot be accepted, since it is not contested. Apart from that, the counsel would vehemently contend that specific accusation is made that on 05.11.2020 when she went to the house of petitioners, abused her in filthy language taking the caste name and not only abused taking the caste name in filthy language and also held her hair and pulled her from the house. Hence, the matter requires investigation.

5. Having heard learned counsel appearing for the petitioners and learned counsel appearing for the respondent No.2-complainant, while quashing the FIR, the Court has to

look into the contents of complaint. It is not in dispute that both the petitioner No.1 and complainant married 7 years ago and both of them led their life for about 5 years without any trouble. But, differences arose between both of them after she gave birth to a child and specific accusation of complainant is that her husband and family members did not turn up to see the child and when she made an attempt to approach them, in the first attempt, she failed. Then again, when she went on a particular date, at that time, abused in filthy language, assaulted and pushed her from the house holding her hair.

6. Learned counsel appearing for the petitioners would submit that even assuming that such incident has taken place within the four walls of the house, in view of the judgment of Apex Court in ***Hitesh Verma's*** case, it will not come within the definition of SCST Act. However, in the case on hand, specific accusation is made in the complaint that the petitioners taking the caste name of mother and father of the complainant questioned her to which religion she belongs and whether such incident has taken place or not is a matter of investigation. When specific accusation is made mentioning the date of

incident and abuse made holding her hair and pushed her from the house and also assaulted her, whether such an incident has taken place or not is the domain of the Investigating Officer to investigate the matter whether it comes within the purview of Special Enactment or ingredients of other offences and the same has to be probed by the Investigating Officer.

7. In view of the judgment of the Apex Court in **DINESHBHAI CHANDUBHAI PATEL vs. STATE OF GUJARAT AND OTHERS** reported in **(2018) 3 SCC 104**, the Apex Court held that High Court should not venture to come in the way of investigation and the Investigating Officer has to unearth the truth. When such being the case, it is a matter of investigation by the Investigating Officer. Hence, at this juncture, the Court cannot quash the proceedings and it is the domain of the Investigating Officer to probe whether the incident has taken place within the four walls of the house and whether it attracts SCST Act or not and he has to invoke the appropriate offences, if really the said incident has taken place as alleged in the complaint.

8. In view of the discussion made above, I pass the following:

ORDER

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

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 16