



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH**

DATED THIS THE 28TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

CRIMINAL PETITION NO.200827 OF 2022 (482)

BETWEEN:

1. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN,
DIST. BIDAR-585327.

2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN,
DIST. BIDAR-585327.

3. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN,
DIST. BIDAR-585327.

4. [REDACTED]
[REDACTED]
[REDACTED]
SHOLAPUR CITY,(MAHARASHTRA)-413006.

Digitally signed
by KHAJAAMEEN
L MALAGHAN
Location: HIGH
COURT OF
KARNATAKA



5. [REDACTED]
[REDACTED]
[REDACTED]
KALABURAGI CITY-585101.

6. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] RANGAMPETH,
YADGIR-585201.

7. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN
DIST. BIDAR-585327.

8. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN,
DIST. BIDAR-585327.

9. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN
DIST. BIDAR-585327.

10. [REDACTED]
[REDACTED]
[REDACTED]
KALABURAGI-585105.

...PETITIONERS

(BY SRI KADLOOR SATYANARAYANACHARYA, ADVOCATE)



AND:

1. STATE OF KARNATAKA THROUGH
BASAVAKALYAN TOWN P.S.
RPTD. BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585103.

2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
BASAVAKALYAN,
BIDAR-585327.

...RESPONDENTS

(BY SMT. ANITA M. REDDY, HCGP FOR R1;
SRI K. S. GANESHA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO, QUASH THE PROSECUTION LAUNCHED AGAINST THE PETITIONERS IN C.C NO.06/2022 ON THE FILE OF CIVIL JUDGE AND JMFC AT BASAVAKALYAN ARISING OUT OF CR.NO.133/2021 OF BASAVAKALAYAN TOWN POLICE STATION, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 504, 498-A, R/W SEC. 34 OF IPC.

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

ORDER

Heard the learned counsel appearing for the petitioners and learned HCGP for respondent-State. Though respondent No.2 had appeared through her counsel, there was no representation on her behalf.



2. Accused Nos. 1 to 10 have approached this Court under Section 482 of Cr.P.C., seeking to quash the FIR and the chargesheet registered against them in CC No.06/2022 (arising out of Crime No.133/2021) of Basavakalyana Town P.S., for the offences punishable under Sections 341, 498A, 504 r/w Section 34 of IPC.

3. The complainant who is the wife of accused No.1 filed a complaint alleging that the marriage of the complainant and accused No.1 ████████ took place on 07-12-2014 and thereafter, they were blessed with two daughters. It was alleged that for two years, the relationship was cordial and they did not get any child during that period and therefore, accused No.2, the mother-in-law of the complainant and others had started mental and physical harassment to her. It was further alleged that the husband and his family members had demanded gold at the time of baby showers of the complainant and later, the mother-in-law was insisting that clothes and other requirement had to be met by the



parents of the complainant. There were tauntings by the complainant and the gold belonging to the complainant was given to the other relatives of the accused. The complaint narrates several incidents like the complainant was made to stay in the room and accused used to state that accused No.1 would marry another lady and that the complainant would be killed by using rat poison. It was also alleged that there were also harassment regarding the phone calls and accused No.2 was insisting that the complainant should call the sisters of accused No.1. It is also alleged that whenever the children are suffering from fever, accused No.1 used to bring medicine prescribed by the Doctors and he was not allowing the complainant to give Ayurveda treatment to the children. Several such incidents were mentioned in the complaint and it was alleged that since 7 years, such harassment was given and in the said tension her father succumbed to death. Therefore, she had sought for action against all the accused. After registration of the case, the Investigating



Officer had investigated the matter and ultimately, filed the chargesheet against accused Nos. 1 to 10.

4. Now accused Nos. 1 to 10 have approached this Court stating that there are no discernible and specific allegations against these petitioners which would constitute an offence. It is contended that the complainant makes omnibus allegations against all the accused and specific incident of harassment or assault or any such acts committed by accused are not narrated either by the complainant or any of the witnesses cited by the prosecution. Therefore, it is contended that the case against the petitioners be quashed.

5. *Per contra*, the learned HCGP for State has submitted that the complaint clearly mention the harassment meted out by accused Nos.1 and 2 and that the several incidents narrated by the complainant in the complaint as well as her statement before the police clearly show that it was accused Nos.1 and 2 who were harassing the complainant. Though there is a scanty



material as against accused Nos. 3 to 10, the statements of the witnesses show that these accused were also supporting accused Nos.1 and 2. Therefore, it is submitted that there are no reasons to quash the case against the accused/petitioners.

6. It is relevant to note that the decision of the Apex Court in the case of **Kahkashan kausar @ Sonam and others Vs. State of Bihar and other**¹ considers the various judgments rendered by the Apex Court concerning an offence under Section 498A of IPC, right from the judgment in the case of **Rajesh Sharma and others Vs. State of UP**, the Apex court has chronicled the latest judgment in the case of **K. Subba Rao Vs. The State of Telangana**² and ultimately, in para 22 of its judgment it holds as below:

" 22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the appellants are forced to go through

¹ 2022 AIAR (Criminal) 338

² 2018 (14) SCC 452



the tribulations of a trial, i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged. "

7. It is pertinent to note that the provisions of Section 498 of IPC are quite often misused and minor differences between the couple are being brought to the Court unnecessarily by roping in all the family members of the husband, who are staying elsewhere than the place of stay of the couple. In fact, there would not be any evidence to show that the relatives of the husband had also a role in the alleged dispute between the husband and wife. The differences between the couple may be for various reasons, but such reasons are camouflaged for reasons which really did not happen so that the case is brought within the purview of 498A of IPC. According to the learned counsel for the petitioners, the reason for the



dispute between the husband and wife is that, the couple were staying at Mumbai and accused No.1 was working as a Software Engineer. During COVID times, they had returned to Basava Kalyana and when their child was about six months old, the mother of the complainant died at Bangalore, due to COVID. Accused No.1 did not agree that the complainant and the children should travel to Bangalore for the last rituals during COVID and that was the reason, which resulted in the present complaint.

8. Be that as it may, it is a matter to be considered at the time of the trial. What is relevant to note in the present case is that, the FIR which is handwritten by the complainant mainly allege that the harassment was meted out by accused No.1 and 2. The involvement of accused Nos. 3 to 10 is remote. Accused Nos. 3 to 10 were not residing at Mumbai where the couple lived. It is evident that accused Nos. 3 to 10 are the residents of Basava Kalyan, Hubli, Gulbarga, Rangampet and such other places. None of them were residing at the place of



residence of accused No.1. Therefore, the involvement of accused Nos. 3 to 10 in the alleged harassment meted out to the complainant is not forthcoming either from the FIR or from the investigation papers. Such involvement of accused Nos. 3 to 10 is only in the form of omnibus allegations against them and specific details of their harassment is not narrated.

9. Therefore, in the light of the observations made by the Apex Court in the case of **Kahkashan kausar @ Sonam and others Vs. State of Bihar and other** referred supra, it would not be proper to continue the prosecution of accused Nos.3 to 10. The gist of the allegations made in the complaint with specific details is only available as against accused Nos. 1 and 2. Therefore, the petition deserves to be allowed in part. Hence, the following:

ORDER

- (i) The petition is allowed in part.



(ii) The proceedings in Crime No 133/2021 registered by Basavakalyan Town P.S. for the offences punishable under Sections 341, 504, 498A read with Section 34 of IPC now pending in CC No.6/2022 on the file of Civil Judge and JMFXC, Basavakalyan, so far as petitioner Nos. 3 to 10 are concerned is quashed.

(iii) Petitioner Nos. 1 and 2/accused Nos. 1 and 2 shall face the trial before the trial Court.

Sd/-
JUDGE

tsn*
List No.: 1 Sl No.: 13
CT:PK