NC: 2026:KHC-D:8159
CRL.P No. 102659 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.102659 OF 2024

(482(CR.PC)/528(BNSS))

BETWEEN:

SURESH S/O. SANTAJI GHORPADE,
AGE. 26 YEARS, OCC. INDIAN ARMY,
R/O. NADI-INGALGAON, TQ. ATHANI,
DIST. BELAGAVI-591304,
NOW R/O. 69, MEDIUM REGIMENT ARTY RECORD OFFICE,
C/O. 56 APO CENTER, NASIK GNR NO.15252820X
MAHARASHTRA-422102.

...PETITIONER

(BY SRI. JAGADISH PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   THROUGH P.S.I ATHANI P.S BELAGAVI,
   REPRESENTED BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   DHARWAD BENCH-580001.

2. SMT. KADAMBARI W/O. SURESH GHORPADE,
   AGE. 24 YEARS, OCC. HOUSEHOLD,
   R/O. AT NADI-INGALGAON, TQ. ATHANI,
   DIST. BELAGAVI-591304.
   NOW R/O. ATHANI, GASTI PLOT,
   TQ. ATHANI, DIST. BELAGAVI-591304.

...RESPONDENTS

(BY SMT. GIRIJA S.HIREMATH, HCGP FOR R1;
SRI. SHARAD M.PATIL, HCGP FOR R2)

Digitally signed by CHANDRASHEKAR LAXMAN KATTIMANI
Location: HIGH COURT OF KARNATAKA DHARWAD BENCH DHARWAD

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS, PRAYING TO ALLOW THIS PETITION AND QUASH THE ENTIRE PROCEEDINGS IN SPECIAL CASE NO.41/2024 PENDING ON THE FILE OF III ADDL. DISTRICT AND SESSIONS COURT, BELAGAVI CONCERNING ATHANI P.S. FIR CRIME NO.399/2023 DATED 15.11.2023 FOR OFFENCES PUNISHABLE UNDER SECTION 498A, 323, 504 OF IPC AND UNDER SECTION 3 AND 4 OF DOWRY PROHIBITION ACT, 1961 AND UNDER SECTION 3(2)(VA) OF SCHEDULED CASTE AND SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989 AND ALL FURTHER PROCEEDINGS PURSUANT THERETO WITH RESPECT TO THE PETITIONER AND ETC.,.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader for respondent No.1/State as well as the learned counsel for the complainant/respondent No.2.

2. This petition is filed to quash the proceedings in Special Case No.41/2024 on the file of Sessions Court, Belagavi in connection with Athani Police Station Crime No.399/2023.

3. The petitioner is accused of offence under Sections 498A, 323, 504 of the Indian Penal Code, 1860 (‘IPC’) and

Sections 3 and 4 of the Dowry Prohibition Act, 1961 and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act of 1989').

4. The complainant is the wife of the petitioner. The complaint is filed on 15.11.2023, wherein the complainant alleges that on 06.01.2023, the petitioner married the complainant. The complainant is stated to be a person belonging to the Scheduled Caste and petitioner is stated to be the Hindu-Maratha. The complainant states that for few days, the marital life was good. Thereafter, on 14.01.2023, the complainant went to her native place and after she returned, the petitioner according to the complainant allegedly stated that, she belongs to the scheduled caste and insisted for terminating the marriage. It is also alleged that, petitioner used to abuse and beat the complainant. The complainant states that, she has informed the same to her aunt and aunt has advised the petitioner not to commit such act.

5. It is also alleged that, on 09.02.2023, the petitioner again has beaten and abused the complainant and on

10.02.2023, he has left the company on the pretext that, he has to join his employment in Military.

6. It is stated that, the petitioner insisted for dowry and on 23.03.2023, the complainant transferred ₹50,000/- to the petitioner and on 24.03.2023, the complainant's father transferred ₹1,50,000/-. The said transfer is said to have been made through Online payment using PhonePe and RTGS facility. In this background, the complaint is filed.

7. The police have filed charge sheet after investigation.

8. Learned counsel for the petitioner would submit that, though the FIR is filed for the offences under Section 3(1)(s) and 3(2)(va) of the Act of 1989, in the charge sheet, the offence under Section 3(1)(s) is not included and is dropped. He would submit that, offence under Section 3(2)(va) of the said Act of 1989 cannot be included unless the scheduled offence is committed against the complainant. He would refer that, no injury is forthcoming on the complainant, as such the charge sheet for offence under Section 323 of IPC is not tenable.

9. Learned counsel petitioner would submit that, no wound certificate is produced. Thus, would urge that the charges have to be quashed in respect of the aforementioned offences under Section 3(2)(va) of the Act of 1989 and Section 323 of IPC referred to above.

10. It is also urged that, false case is filed and entire charge sheet has to be quashed in respect of other offences and the charge sheet does not attract the offences alleged.

11. Learned counsel for respondent No.2 would urge that, the complainant in her complaint has made out all allegations which would attract all the provisions referred to in the charge sheet and no ground is made out to quash the proceeding. It is also urged that, the dowry is demanded and paid through Online, as such, there is no reason to interfere with the charge sheet and to reject the proceeding before the Trial Court.

12. The Court has considered the contentions raised at the bar and perused the records.

13. As far as allegation relating to demand of dowry is concerned, there are materials in the complaint as well as in the charge sheet which attract the provisions namely Sections 3 and 4 of the Dowry Prohibition Act, 1961 and Section 498A of IPC.

14. It is also noticed that, there is allegation in the complaint and the charge sheet which may attract Section 504 of IPC.

15. Though charge sheet is filed for offences under Section 323 of IPC, wound certificate is not produced. There are no materials to hold that the complainant has sustained injuries. Even in the complaint, the complainant does not say that, she has sustained injuries, which attract Section 323 of IPC. Thus, the contentions of the respondents that, there has to be a trial for offence under Section 323 of IPC cannot be accepted.

16. If Section 323 of IPC is not attracted, then Section 3(2)(va) of the Act of 1989 cannot be attracted as Section 323 of IPC is the only scheduled offence alleged. If that is taken of, there is no other scheduled offence in the charge sheet.

17. The Court is of the view as far as offence under Section 3(1)(s) of the Act of 1989 is concerned, it is noticed that though said person is specified in the FIR, the police after investigation have not filed charge sheet for the said offence under Section 3(1)(s). Hence, the petition succeeds in part. Accordingly, the following:

ORDER

i. Petition is ***allowed***.

ii. The charge sheet for the offences under Section 323 of IPC is allowed and Section 3(2)(va) of the Act of 1989 are quashed.

iii. The proceedings shall commence before the Jurisdictional Magistrate in respect of the offences under Sections 3 and 4 of the Dowry Prohibition Act, 1961 and Section 498A and 504 of IPC.

iv. The jurisdictional Sessions Judge shall transfer the case to the jurisdictional Magistrate.

v. All opinions expressed in this petition are only confined to the offences quashed.

vi. The direction to the Magistrate to hold the trial should not be considered as having expressed anything on the merits of the case of the prosecution or the accused.

vii. All other contentions kept open.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CLK
CT: UMD
List No.: 1 Sl No.: 88