



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 201714 OF 2025

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

BETWEEN:

1. NAGENDRA
S/O KRISHNAJI KHARATMOL
AGE: 60 YEARS
OCC: AGRICULTURE
R/O VILLAGE BEMALKHEDA
TQ: CHITAGUPPA
DIST: BIDAR - 585227
2. BALAMMA
W/O NAGENDRA KHARATMOL
AGE: 55 YEARS,
OCC: AGRICULTURE
R/O VILLAGE BEMALKHEDA
TQ: CHITGUPPA, DIST: BIDAR-585227

...PETITIONERS

(BY SRI. GHATE KONDIBARAO, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH ITS SUB-INSPECTOR OF POLICE
BEMALKHEDA POLICE STATION
TQ: CHITAGUPPA, DIST: BIDAR-585227
THROUGH ADDL. STATE PUBLIC PROSECUTOR
KALABURAGI, HIGH COURT BENCH
KALABURAGI.



2. CHANDRAMMA
W/O JHARANAPPA SINDABANDAGI
AGE: 65 YEARS, OCC: HOUSEHOLD,
R/O VILLAGE BEMALKHEDA
TQ: CHITAGUPPA
DIST: BIDAR-585227

...RESPONDENTS

(BY SRI.JAMADAR SHAHABUDDIN, HCGP FOR R1;
R2 SERVED AND UNREPRESENTED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. (OLD), U/SEC. 528 OF BNSS (NEW), PRAYING TO CALL FOR THE RECORDS OF C.C.NO.606/025 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, HUMNABAD AND THEREBY PLEASED TO ALLOW THE PETITION AND ORDER FOR QUASHING THE CRIMINAL PROCEEDINGS INITIATED BY RESPONDENT NO.1 POLICE ON THE COMPLAINT FILED BY RESPONDENT NO.2 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 324 AND 504 R/W SECTION 34 OF IPC, ARISING OUT OF CRIME NO.44/2021 BEMALKHEDA P.S. BIDAR WHICH IS SUBSEQUENTLY NUMBERED AS C.C.NO.606/2025 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC HUMNABAD.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA



ORAL ORDER

The petitioners have filed this petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS, 2023') seeking following reliefs:

"Wherefore, this Hon'ble Court may kindly be pleased to call for the records of C.C.No.606/2025 on the file of Senior Civil Judge and JMFC, Humnabad and thereby pleased to allow the petition and order for quashing the criminal proceedings initiated by respondent No.1 police on the complaint filed by respondent No.2 for the offences punishable under sections 323, 324 and 504 r/w section 34 of IPC, arising out of Crime No.44/2021 Bemalkheda p.s. Bidar which is subsequently numbered as C.C.No.606/2025 on the file of Senior Civil Judge and JMFC, Humnabad."

2. The brief facts of the case is that, respondent No.2-complainant and her family members are accused in C.C.No.260/2016 on the file of Senior Civil Judge & JMFC, Humnabad. The said Court passed the order of conviction for the offence under Sections 341, 323, 326 of IPC. Aggrieved by the same, appeal was filed in Crl.A.No.103/2018 before the II-Addl. Dist. & Sessions Court, Bidar, Sitting at Basavakalyan. The same came to be dismissed. Thereafter on 01.10.2021, respondent



No.2/complainant gave a complaint against the petitioners-accused and four others before the respondent-police for the offences punishable under Sections 504, 149, 323, 324 IPC and respondent No.1 registered a case in Crime No.44/2021. That on 10.01.2022 respondent No.1-Police have submitted 'B' report in Crime No.44/2021 before the Senior Civil Judge & JMFC, Humnabad. On 17.02.2022 the Magistrate on receiving 'B' final report, issued notice to the complainant, who appeared and filed protest petition and proceeded for recording of her statement. That on 28.06.2023 respondent No.2-complainant was examined as PW.1 in Crime No.44/2021, and on 16.09.2023 the husband of the complainant, namely, Jharnappa was examined as PW.2. That on 27.03.2024 the Senior Civil Judge & JMFC, Humnabad proceeded in taking cognizance for the offence under Sections 323, 324, 504 read with Section 34 of IPC, as against the petitioners/accused and four others and directed to register criminal case and summons were



issued to the accused. Being aggrieved by the order of cognizance dated 27.03.2024, the accused/petitioners have filed this petition.

3. The learned counsel appearing on behalf of the petitioners would submit that the order of cognizance passed in Crime No.44/2021 is without any independent statement recorded by the witnesses mentioned in the FIR. So, there is no any cogent and convincing reasons assigned by the learned Magistrate. Accordingly the order of cognizance is completely bad in the eye of law and liable to be quashed. The Learned Magistrate has taken cognizance under Sections 323, 324, 504 read with Section 34 of IPC. However, the said order is completely silent, as against which of the accused, the said cognizance is taken. Accordingly, the said cognizance order has resulted in abuse of process of law and non-application of judicious mind and there are no reasons as such assigned by the learned Magistrate. Accordingly, the order of cognizance is liable to be quashed. The learned



Magistrate has relied upon the discharge certificate- Ex.P6, more importantly, the discharge certificate does not contain nature of injury sustained by respondent No.2. On the other hand, the wound certificate issued by the Medical Officer, Manna-Ekheli Civil Hospital, refers that no any injuries have been found on the body of respondent No.2/complainant. Therefore, the petitioners/accused have not committed any offence. The learned magistrate by referring the medical bill cannot take cognizance of the offence. So there is complete non-application of judicious mind. After the investigation, the Investigating Officer has submitted the 'B' final report for two times. The complainant has filed a protest petition for the first 'B' report. But the complainant has not filed a second protest petition to the second 'B' report. Hence, cognizance taken by the learned Magistrate is not sustainable under law. On all these grounds, prays to allow the petition.

4. I examined the materials placed before this Court.



5. On the basis of complaint filed by the complainant-Chandramma, respondent-Bemakhed Police have registered a case in Crime No.44/2021 and submitted FIR to the Court. After investigation, the Investigating Officer has submitted 'B' final report. The complainant has filed the protest petition to the first 'B' report. The learned Senior Civil Judge & JMFC, Humnabad has rejected 'B' report and ordered to conduct proper investigation and submit report. After re-investigation, that on 29.05.2024 the Investigating Officer has submitted second 'B' report. After filing second 'B' report, the complainant has not adduced any sworn statement and witnesses are also not examined. Prior to rejecting first 'B' report, PW.1-Chandramma examined and PW.2-Jharnappa also examined. Even in the evidence of PW.1, she has not whispered anything against accused. However, the Trial Court has taken cognizance against all the accused for the alleged commission of offences. When the second 'B' report is filed, the complainant ought to have file protest



petition and thereafter, the Trial Court ought to have recorded the sworn statement of the complainant and other witnesses. But in the case on hand, after filing the second 'B' report, though the complainant has not filed any protest petition and adduced sworn statement of the complainant and other witnesses, the Trial Court has taken cognizance against the accused, which is not in accordance with law. Since there is some procedural irregularity, the matter has to be remanded to the Trial Court with a direction to follow the proper procedure.

6. Hence, I proceed to pass the following:

ORDER

- (i) The petition is ***partly allowed***.
- (ii) The impugned order passed by the Senior Civil Judge & JMFC, Humnabad dated 27.03.2024 is set aside.
- (iii) The matter stands remitted to the Senior Civil Judge & JMFC, Humnabad with a direction to provide opportunity to the



complainant to file protest petition to the second 'B' report submitted by the Investigating Officer.

- (iv) After filing protest petition, the Trial Court is directed to provide opportunity to the complainant to record the sworn statement of the complainant and their witnesses, if any.
- (v) After recording the sworn statement of the complainant and witnesses, if any, the Trial Court shall proceed with the case in accordance with law.

Registry is directed to send a copy of this order along with TCR to the Trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**