

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2021

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION No.3585 OF 2021

BETWEEN:

1. Smt. Jaikiran C.K
D/o C H Keshavamurthy
Aged 40 years
Residing at 212, Hoysalanagara
Main Road, Beeranahallikere
Hassan – 573 201
2. Shri. Shiva Prasad Murthy C.K
S/o C H Keshavamurthy
Aged about 33 years
Residing at 212, Hoysalanagara
Main Road, Beeranahallikere
Hassan -- 573 201
3. Smt. H.K.Saroja
W/o C H Keshavamurthy
Aged about 62 years
Residing at 212, Hoysalanagara
Main Road, Beeranahallikere
Hassan – 573 201

...Petitioners

(By Sri. Rohan Kothari, Advocate)

AND:

1. State of Karnataka
By Police Sub-Inspector
Extension Police Station
Hassan – 573 201

2. Sharath Kumar S.G
Somanahalli Village
Duddahobli, Hassan Tq
Hassan – 573 136

... Respondents

(By Smt. Rashmi Jadhav, HCGP for R1,
R2 Served)

This Criminal Petition is filed under Section 482 of Cr.P.C. praying this Court may be pleased to quash the complaint and all proceedings pursuant thereto as against the petitioners and etc.,

This Criminal Petition coming on for Admission this day, the Court made the following:

ORDER

Heard the learned counsel for the petitioners and learned HCGP for respondent No.1.

2. Petitioners who are accused Nos.1 to 3 in Cr.No.03/2021 registered by the Hassan Extn. Police Station for the offences punishable under Sections 504, 323 read with Section 34 of IPC on the file of IV Civil

Judge and J.M.F.C. Hassan have approached this court with a prayer to quash the complaint and all the proceedings in the said case.

3. Brief facts that would be relevant for the purpose of disposal of this petition are:

On the complaint of the respondent No.2 herein dated 08.01.2021, the Hassan Extn. Police had registered FIR against the petitioners herein in Crime No.03/2021 for the offences punishable under Sections 504, 323 read with Section 34 of IPC. Being aggrieved by the same, the petitioners have approached this Court.

4. Learned counsel for the petitioners submits that the offences under Sections 504, 323 of IPC are non-cognizable offences and therefore, the police would not have registered FIR as against the petitioners in respect of non cognizable offences.

5. Learned HCGP appearing for the respondent No.1 does not dispute that the FIR has been filed against the petitioners for non cognizable offences.

6. Plain reading of Section 155 (1) Cr.P.C. would make it clear that on receipt of complaint by the officer incharge of the police station with regard to commission of non cognizable offences within the limits of the said station, he is required to enter or cause to be entered the substance of information in a book that is required to be kept in the police station in such form as the State Government may prescribe in this behalf, and thereafter refer the informant to the learned Magistrate. In the case on hand, on receipt of the complaint from respondent No.2 with regard to commission of non cognizable offences the police instead of referring respondent No.2 to the learned Magistrate have proceeded to seek permission from the learned Magistrate under Section 155(2) of Cr.P.C. which is not

permissible in law. Non-compliance of requirement of Section 155(1) of Cr.P.C. would vitiate the entire proceedings and the said defect is incurable defect.

7. Under these circumstances, the impugned proceedings which arise out of the FIR registered by the police in respect of non-cognizable offences cannot be allowed to continue.

Accordingly, Criminal Petition is allowed. The complaint and the entire proceedings in Cr.No.03/2021 registered by the Hassan Extn. Police Station for the offences punishable under Sections 504, and 323 read with Section 34 of IPC on the file of IV Civil Judge and J.M.F.C. Hassan are quashed.

**Sd/-
JUDGE**