

**CRL.P NO. 201257/2019**  
**C/W CRL.P NO.200660/2019**  
**IN THE HIGH COURT OF KARNATAKA,**  
**KALABURAGI BENCH**  
**DATED THIS THE 18<sup>TH</sup> DAY OF APRIL, 2023**  
**BEFORE**  
**THE HON'BLE MR JUSTICE S RACHAIAH**

**R**

**CRL.P.NO.201257/2019**  
**C/W**  
**CRL.P.NO.200660/2019**

**CRL.RP NO. 201257/2019**  
**BETWEEN**

...PETITIONERS

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE)

**AND**

1. THE STATE  
THROUGH DEODURGA POLICE STATION,  
REPT. THROUGH PUBLIC PROSECUTOR,  
HIGH COURT BENCH  
KALABURAGI-585107.

....RESPONDENTS

(BY SRI SHARANABASAPPA M. PATIL, HCGP FOR R1;  
SRI BASAVARAJ R. MATH, ADVOCATE FOR R2)

**CRL.P.NO.201257/2019**  
**C/W CRL.P.NO.200660/2019**

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE COMPLAINT AND FIR IN CRIME NO.423/2018 OF DEODURGA POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498A, 504, 323 AND 506 READ WITH SECTION 34 OF IPC AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT, 1961, PENDING ON THE FILE OF THE COURT OF MUNSIF AND JMFC COURT, DEODURGA, RAICHUR.

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THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED ON 16.03.2023 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

These two petitions are arising out of same crime number, therefore taken up together for disposal. The Crl.P.No.201257/2019 is pertaining to accused Nos.2 and 3 and the Crl.P.No.200660/2019 is pertaining to accused Nos.4 and 5.

02. The Brief facts of the case :-

The respondent No.2 is the wife of Gopal Gundyal who is arrayed as accused No.1. The accused Nos.2 and 3 are the father-in-law and mother-in-law. The accused

Nos.4 and 5 are the sister-in-law and husband of sister-in-law respectively. It is stated in the complaint that the marriage of the respondent No.2 was solemnized with the accused No.1 on 30.05.2013. At the time of marriage, dowry was given in the form of cash and gold and also certain household items were given. After the marriage the respondent No.2 was living happily for 03 years at Solapur in the matrimonial home. It is stated that the accused No.1 was working in a private company at Pune. As the respondent No.2 did not know either Marathi or Hindi language, she was not taken to Pune. However, she had to stay at her in-law's house. It is alleged that there was a continuous harassment by the in-laws by one or the other pretext and always used to insist the respondent No.2 to go and stay with her husband in Pune. Being frustrated by the harassment of her in-laws, she has decided to go along with her husband. Accordingly, accused No.1 took her to Pune, with a condition that she should not call any of her relatives to Pune. The respondent No.2 made several allegations, *inter-alia*, the specific allegation made out against all the petitioners that

on 22.12.2018 at about 10.30 p.m., when the respondent No.2 and her parents were about to sleep after having dinner, the accused No.1 came to the house of respondent No.2 and called her to come out. On hearing the voice, the respondent No.2 opened the door, by that time all the accused persons entered into the house and assaulted all the family members and scolded them in a filthy language. Hence, the respondent No.2 lodged the complaint against all the family members, including the petitioners. As such, they have committed offences as stated in the FIR.

03. It is the submission of the learned counsel for the petitioners that, there are omnibus allegations made out against the petitioners, which are considered as absurd and frivolous. Even on reading the complaint at its entirety, no prima-facie case made out against the petitioners. Such being the fact, subjecting them to face the trial upon such bald allegations, would be considered as futile exercise. The learned counsel sought to invoke the inherent jurisdiction of this Court to quash the proceedings. To substantiate his contention, he relied

upon the judgment of the Hon'ble Supreme Court in the case of ***Kahkashan Kousar and others vs. State of Bihar and others***, reported in **(2022) 6 SCC 599**.

04. *Per contra*, the learned High Court Government Pleader vehemently opposed the petitions and submitted that there are allegations made out against the petitioners and there are triable issues in these cases and the said issues required to be tried in a full pledged trial. Such being the fact, if the facts are considered and quashed the proceedings, the injustice would be caused to the complainant. As such, the learned High Court Government Pleader prays to dismiss the petitions.

05. Having heard the learned counsel for the respective parties and also perused the documents available on record. It is necessary to refer the judgment of the Hon'ble Supreme Court in the case of ***Taramani Parakh vs. State of Madhya Pradesh and others*** reported in **(2015) 11 SCC 260**, Para Nos.10, 14 and 15 which reads thus:-

"10. Law relating to quashing is well settled. If the allegations are absurd or do not made out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the Court does not go into reliability or otherwise of the version or the counter version. In matrimonial cases, the Courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. We may refer to the decisions of this Court dealing with the issue.

14. From reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out. There are allegations against Respondent No.2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has infact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible.

*15. The decisions referred to in the judgment of the High Court are distinguishable. In Neelu Chopra, parents of the husband were too old. The husband Rajesh had died and main allegations were only against him. This Court found no cogent material against other accused. In Manoj Mahavir, the appellant before this Court was the brother of the daughter-in-law of the accused who lodged the case against the accused for theft of jewellery during pendency of earlier 498A case. This Court found the said case to be absurd. In Geeta Mehrotra, case was against brother and sister of the husband. Divorce had taken place between the parties. The said cases neither purport to nor can be read as laying down any inflexible rule beyond the principles of quashing which have been mentioned above and applied to the facts of the cases therein which are distinguishable. In the present case the factual matrix is different from the said cases. Applying the settled principles, it cannot be held that there is no triable case against the accused."*

06. On careful reading of the dictum of the Hon'ble Supreme Court, in the present case, the respondent No.2 lodged the written complaint, which carries four pages.



The complaint contains several allegations against the petitioners. However, till 25.12.2018, she has not lodged any complaint against the in-laws. In the complaint there is specific allegation about assault made out against all the petitioners. However, it appears that the allegations are omnibus and absurd in nature and the said allegations are not sufficient to invoke the provisions as stated supra. Unless, there are no allegations made out against each petitioners independently, it cannot be construed that the petitioners have committed the offence. Regard being had to the submission of the learned counsel for the petitioners that the husband of the respondent No.2 had filed divorce petition on 17.12.2018 at Solapur Family Court. As a token of retaliation, the respondent No.2 filed complaint against all the petitioners assumes greater significance.

***Therefore, the criminal case filed by the wife, in respect of cruelty, dowry harassment against the husband and in-laws loses its significance, in case the complaint is made, after receiving the divorce notice from her husband.*** Hence, it is a fit cases to

exercise the inherent jurisdiction to quash the proceedings.

07. In the light of the above observations, I proceed to pass the following;

**ORDER**

- I. The petitions are allowed.
- II. The complaint and FIR in Crime No.423/2018 of Deodurga Police Station, in respect of the present petitioners stands quashed.

**Sd/-**  
**JUDGE**

KJJ