



CRL.P No. 100659 of 2021

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 07TH DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 100659 OF 2021 (482-)

BETWEEN:

1. BANU BEGUM W/O KHAJASAB ALIAS MEHABOOSAB
AGE 34 YEARS, OCC. HOUSE WIFE,
R/O. BANNIGIDA CAMP, GANGAVATHI,
DIST. KOPPAL 583227.
2. MAHIBOOSAB NABISAB, AGE. 36 YEARS,
OCC. AUTORIKSHAW DRIVER,
R/O. BANNIGIDA CAMP,
GANGAVATHI, DIST. KOPPAL 583227.
3. ZAREENA BEGUM R FAYAZ
AGE. 33 YEARS, OCC. HOUSE WIFE,
R/O. KILLA REA, GANGAVATHI,
NOW AT COWL BAZAR, BALLARI 583104.
4. SHAKSHAVALI ABDULSAB HUDEDAMANI
AGE. 32 YEARS, OCC. ATTENDER,
R/O. KILLA AREA, GANGAVATHI,
DIST. KOPPAL 583227.

...PETITIONERS

(BY SRI. M B GUNDAWADE.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY STATE PUBLIC PROSECUTOR,
HIGH CORUT OF KARNATAKA,
DHARWAD BENCH, AT DHARWAD,
THROUGH GANGAVATHI TOWN POLICE 580011



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2. SMT. R JAYASHREE NARASIMHA
AGE. 33 YEARS, OCC. STATE GOVERNMENT
EMPLOYEE, R/O. CDPO OFFICE,
GANGAVATHI, DIST. KOPPAL 583227.

...RESPONDENTS

(BY SRI RAMESH CHIGARI, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
SEEKING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE
PETITIONERS/ ACCUSED NO.1-4 INC.C.NO.1016/2019 FOR
THE ALLEGED OFFENCE U/SEC 80 OF JUVENILE JUSTICE (CARE
AND PROTECTION OF CHILDREN) ACT 2015 ON THE FILE OF
PRINCIPAL CIVIL JUDGE AND JMFC COURT GANGAVATHI.

THIS PETITION COMING ON FOR ADMISSION THIS DAY,
THE COURT PASSED THE FOLLOWING:

ORDER

A charge sheet is filed alleging that accused No.1 gave
birth to twin babies on 14.9.2018. Accused No.3, who was
married and issue less through accused No.4, intended to take
the daughter of accused No.1 on adoption. Accused Nos.1 and
2 agreed for giving adoption to accused No.3 on 14.9.2018
when accused No.1 came to the hospital for delivery, the
accused No.1 had asked accused No.3 to come to the hospital.
Accused No.1 delivered twin babies and one of the daughters
had breathing problem and the said daughter was taken by



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accused No.3 by registering the name of the mother as Jareena Begum and thereafter took the daughter of accused Nos.1 and 2 on adoption by executing a deed on Rs.20/- stamp paper. The learned Magistrate took cognizance of the offence punishable under Section 80 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for short `Act') and issued summons to the petitioners. Taking exception to the same, this petition is filed.

2. The learned counsel for the petitioners submits that the child which is alleged to have been taken by adoption by accused No.3 is not an orphan, abandoned or surrendered child so as to constitute the commission of offence punishable under Section 80 of the Act. Hence he submits that the charge sheet filed against the petitioners – accused is without any substance.

3. On the other hand, the learned High Court Government Pleader submits that accused No.3 having taken adoption of the child without following the provisions or procedure as provided under the Act have committed the offence punishable under Section 80 of the Act.



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4. I have considered the submissions of the learned counsel for the parties.

5. The allegation is that accused No.3 has taken adoption of the daughter who was born to accused Nos.1 and 2 without following the provisions or procedure prescribed under the Act thus constituting the offence punishable under Section 80 of the Act. A person is stated to have committed an offence, if he/she takes a child on adoption who is an orphan, abandoned or surrendered child without following the provisions or procedures as provided under the Act. In the present case, the allegation is that accused No.3 has taken a child in adoption born to accused Nos.1 and 2 who is not an abandoned child or orphan or surrendered child as defined under Sections 2(1), 2(42) and 2(60) of the Act. In the absence of any declaration that the child is deserted by his biological or adoptive parents or guardians, the filing of the charge sheet is also without any substance. Accordingly, I pass the following:

ORDER

- i) Criminal petition is allowed.



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ii) The impugned proceedings in CC No.1016/2019 pending on the file of the Principal Civil Judge and JMFC Court, Gangavathi, is hereby quashed.

**Sd/-
JUDGE**

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