



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH
DATED THIS THE 4TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAJESH RAI K
CRIMINAL PETITION NO. 201252 OF 2025
(482(Cr.PC)/528(BNSS)**

BETWEEN:

1. MUKRAM KHAN S/O. AJAM KHAN,
AGE 66 YEARS,
OCC. ADVOCATE AND SOCIAL WORKER,
R/O BATAGERA GATE, SEDAM.
2. DR. SOYAB KHAN S/O. MUKRAM KHAN,
AGE 36 YEARS, OCC. MEDICAL PRACTITIONER,
R/O. MEHANDIPATANAM, MIGH COLONY,
HYDERABAD.

...PETITIONERS

(BY SRI N B DIWANJI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH SEDAM POLICE STATION,
SEDAM, TQ. SEDAM, DIST. KALABURAGI.
NOW REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH.
2. SHANKAR S/O. TIKAPPA GAYAKWAD,
AGE 57 YEARS, OCC: AGRICULTURE
R/O. SRINIVAS NAGAR, KURKUNTA VILLAGE
TQ. SEDAM, DIST. KALABURAGI-585210.

...RESPONDENTS

(BY SRI GOPAL KRISHNA B. YADAV, HCGP FOR R1;
R2 DEAD)





THIS CRL.P IS FILED U/S. 528 OF BNSS, U/SEC 482 OF CR.P.C. PRAYING TO ALLOW THIS PETITION AND BE PLEASED TO QUASH THE PROCEEDINGS IN CC NO. 2166/2024 PENDING ON THE FILE OF CIVIL JUDGE AND JMFC AT SEDAM, WHICH WAS REGISTERED IN CRIME NO.29/2022 SEDAM P.S AND FILED CHARGE SHEET FOR THE OFFENCE PUNISHABLE U/SEC 298, 295, 212, 34 OF IPC AGAINST THE PETITIONER TO SECURE THE ENDS OF JUSTICE AND TO PREVENT ABUSE OF PROCESS OF COURT AND PASS SUCH OTHER ORDER.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the proceedings against the petitioners/accused Nos.1 and 2 in C.C.No.2166/2024, arising out of Crime No.29/2022, registered by Sedam Police, for the offences punishable under sections 298, 295(A) and 212 r/w Section 34 of IPC, pending on the file of Civil Judge & JMFC, Sedam.



2. The abridged facts of the case are that, on 17.02.2022, respondent No.2 lodged a complaint before the respondent-Police alleging that on 08.02.2022 between 10:00 to 02.00 p.m. in Sedam City, petitioner No.1 i.e. accused No.1, being the leader of Indian National Congress Party along with a group of persons belongs to Muslim community, has tried to hurt the feelings of Hindu community in a public speech at Sedam City. He has stated that, he will cut into pieces the persons belong to Hindu religion in respect of hijab incident. Hence, FIR came to be registered in Crime No.29/2022 dated 17.02.2022 for the offences punishable under Sections 153A, 298, 295 of IPC, against accused No.1-petitioner No.1.

3. During the course of investigation, it was revealed to the respondent-Police that accused No.2 given shelter to accused No.1 at Hyderabad and thereby, helped him to escape from the clutches of Police. As such, the respondent-Police filed charge-sheet against the accused



Nos.1 and 2 i.e. petitioners herein for the offences punishable under Sections 298, 295(A) and 212 r/w Section 34 of IPC. Based on the charge-sheet, the learned Magistrate took cognizance of the offences. Aggrieved by the same, the petitioners have preferred the present petition to quash the proceedings.

4. Heard learned counsel for the petitioners and learned High Court Government Pleader for respondent No.1-State.

5. Learned counsel for the petitioners reiterated the grounds urged in the petition and prays to allow the petition.

6. Learned High Court Government Pleader opposed to the petition and prays to dismiss the same.

7. As could be gathered from records, the complaint averments clearly disclose that, accused No.1 on the date of incident i.e., on 08.02.2022 at 10:00 a.m. to 2:00 p.m. in Sedam City, with an deliberate and



malicious intentions, outraged the religious feelings of Hindus by saying that he will cut them into pieces in respect of Hijab incident. Subsequently, the respondent-Police investigated the case and recorded the statements of CWs.6 to 12. All these witnesses have categorically stated the act committed by accused No.1. As such, there are *prima facie* materials placed in the charge-sheet against accused No.1 for the offences he has been charged.

8. However, accused No.2 is concerned, the only allegation in the charge-sheet is that, after the incident, accused No.1 escaped to Hyderabad and at that time, he provided shelter to accused No.1 and thereby, made him to escape from the clutches of Police. The said allegation against accused No.2 is not supported by any evidence or statement of witnesses or any documents.

9. It is settled position of law that, in order to invoke Section 212 of IPC, the investigation has to be conducted by Police separately after getting permission



from the Magistrate, since it is a distinct offence by registering a crime. In the principal offence, the co-accused cannot be implicated under the said provision. In that view of the matter, if the entire allegations in the charge sheet are accepted on its face value, even then, the allegations made against petitioner No.2/accused No.2 do not make out a *prima facie* case for the offences under Sections 212 of IPC. In such circumstances, continuation of proceedings against petitioner No.2/accused No.2 is nothing but abuse of the process of court. Accordingly, the same is liable to be quashed. Hence, the following:

ORDER

- (i) The petitioner is ***allowed in-part.***
- (ii) The proceedings against the petitioner No.1/accused No.1 shall continue.
- (iii) The proceedings against the petitioner No.2/accused No.2 in C.C.No.2166/2024, arising out of Crime No.29/2022, registered by Sedam Police, for the offences punishable under



sections 298, 295(A) and 212 r/w Section 34 of IPC, pending on the file of Civil Judge & JMFC, Sedam, is hereby quashed.

**Sd/-
(RAJESH RAI K)
JUDGE**

SDU
LIST NO.: 1 SL NO.: 27
CT:RJ