

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

**DATED THIS THE 31st DAY OF OCTOBER, 2013
BEFORE**

THE HON'BLE Dr.JUSTICE JAWAD RAHIM

CRIMINAL PETITION No.10860/2012

BETWEEN:

1. JYOTHI RANI W/O HARSHA BENTHUR
@ JYOTHI RANI D/O. THIPPESWAMY
AGE: 29 YEARS, OCC: HOUSEHOLD WORK
R/O SONDIKERI, TQ: HIRYUR
DIST: CHITRADURGA
2. KALAVATHI W/O BASAVARAJ
AGE: 50 YEARS, OCC: HOUSEHOLD WORK
R/O. H.NO. 42, RANKA NAGAR,
2ND CROSS MAIN ROAD, DINNUR
KALABAIRA SANDRA R.T. NAGAR,
BANGALORE
3. SRI. THIPPESWAMY
AGE: 60 YEARS, OCC: RETIRED TEACHER
R/O. SONDIKERI, TQ: HIREYUR,
DIST: CHITRADURGA.
4. SMT. KAMALAMMA W/O THIPPESWAMY
AGE: 48 YEARS, OCC: HOUSEHOLD WORK
R/O. SONDIKERI, TQ: HIREYUR,
DIST: CHITRADURGA.
5. PRASHANTH S/O THIPPESWAMY
AGE: 25 YEARS, OCC: STUDENT,

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R/O. SONDEKERE, TQ: HIRIYUR,
DIST: CHITRADURGA.

6. SHANKRAPPA @ SHANKAR YADHAV
AGE: 50 YEARS, OCC: BUSINESS
R/O. NAYAKANA HATTI,
TQ: CHALLAKERE, DIST: CHITRADURGA.
... PETITIONERS

(BY SRI.: SRINAND A PACHHAPURE, ADV.)

AND

SMT. JYOTHI W/O NAGESH GOUDAR
@ JYOTHI D. BENTHUR
AGE: 31 YEARS, OCC: ASSISTANT MANAGER
IN SYNDICATE BANK,
VIJAYANAGAR NEAR, MUSKIN BUS STOP,
HUBLI, DIST: DHARWAD.

... RESPONDENT

(BY SRI.: VIDYASHANKAR DALWAI, ADV.)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C. SEEKING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.607/2012 ON THE FILE OF THE JMFC II-COURT, HUBLI, MARKED AT ANNEXURE-A, INSOFAR AS PETITIONER CONCERNED.

THIS PETITION COMING ON FOR FINAL HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner who is arraigned as accused in CC No.607/2012 arising out of a private complaint filed by the respondent Smt.Jyotirani has questioned the order of the learned II JMFC Court, Hubli, taking cognizance on a private complaint for an offence under Section 307 of IPC and referring it to police for investigation, on the ground offence for which case is registered is triable only by the Court of Session and detailed procedure as prescribed under Section 202 of Cr.P.C. has to be followed.

2. Undoubtedly, the petitioner is questioning the legality of the order taking cognizance against the petitioner and referring the case to the police for investigation under Section 202 of Cr.P.C. despite noticing that the offence was triable by the Court of Sessions. Legality of such an order could be tested only under Section 397 of the Cr.P.C.

3. In the circumstances, the petition under Section 482 will not be right course of action. The learned counsel Sri.Srinahnd A.Pachchapure seeks permission to convert the petition into revision under Section 397 Cr.P.C.

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4. The request is accepted. Permission granted. Office to permit the learned counsel to convert this petition into revision under Section 397 of the Cr.P.C.

5. For all statistical purpose, this petition under section 482 stands disposed of.

**SD/-
JUDGE**

Vmb