

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

THE HON'BLE MR.JUSTICE K.SOMASHEKAR

CRIMINAL PETITION NO. 3140 OF 2016 DATED 11-01-2021

Sri. Ramaprasad S/ o Raghavendra Rao and Another Vs. The State of Karnataka Represented by its State Public Prosecutor and Another

ORDER

This petition is filed by petitioners/Accused Nos. 1 and 2 seeking to quash the entire criminal proceedings in C.C.No.8792/2015 pending on the file of the IX Addl.Chief Metropolitan Magistrate, Bangalore, for the offences punishable under Sections 498A read with Section 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioners/Accused Nos.2 and 3, learned counsel for Respondent No.2/complainant and the learned HCGP for the State. The petitioners herein/Accused Nos.2 and 3 are the father-in-law and mother-in-law respectively of the second respondent/complainant namely Smt. Shruthi Antapnal.

3. It transpires from the case of the prosecution that the complaint was filed by the complainant – Smt. Shruthi Antapnal, the second respondent herein alleging that she had married one Mukund Ramprasad and their marriage was performed on 30.11.2008 at Bangalore as per the customs prevailing in their society.Immediately after marriage, she began residing with her husband at her matrimonial home.But however, after marriage, it is stated that her husband and in laws started ill-treating her and were causing intolerable mental torture.Though at the time of marriage talks they did not make any dowry demands, this changed gradually and they had demanded that all the expenditure required to be borne by her parents as regards engagement and marriage.Further, her parents had incurred an expenditure of Rs. 1,00,000/towards engagement.

It is stated in the complaint that the petitioners herein/her in-laws had demanded everything to be of their choice and her parents had fulfilled all the demands in the fond hope that their daughter would be happy in her in-laws house.That the entire expenditure of the marriage such as marriage hall, jewellery, decorations, transportation, etc., amounting to Rs. 15,00,000/-was borne by the second respondent's parents.Immediately after marriage, that the second petitioner/accused No.3 had discontinued the services of the house maid and had forced the second respondent to do all the household chores saying that it would save the money and it was the duty of the daughter-in-law to do all the household work.They had also demanded her to quit her job as a Software Engineer,

which she refused, being one of the reasons for them to ill-treat her. Further, they had started forcing her to ask for the daughter's share in her father's house, to which the complainant had refused. However, they had forced her several times to give them the money that she earned and was saving and accordingly, she had also paid several amounts by way of cheques in favour of her husband Mukund and mother in law Padma Prasad, which is detailed in a Tabular column in paragraph 7 of her complaint. But however, the harassment is said to have continued and it is stated that accused no.1 had even recorded conversations between herself and her husband both public and private and also conversations with strangers about their marriage and would show it to his mother and they would then consult lawyers and then prepare as to how to terminate Shruthi Antapnal's marriage with Mukund. Her complaint consists of seven sheets and in the last page of her complaint she has specifically stated in her hand-writing that the delay in filing her complaint against him was thinking that Accused No. 1 would change his behaviour but she is filing the complaint since she did not find any improvement in him. Hence, she had requested the Station House Officer, Jnanabharathi P.S., Bangalore, to take necessary legal action against them in C.C.No.8792/2015 arising out of Cr.No.369/2013 registered by the Jnanabharathi P.S., Bangalore, for the offences reflected in the FIR said to have been recorded by the police. These are all the allegations made in the complaint filed by Shruthi Antapnal/Respondent No.2. through the averments made in the complaint filed by Shruthi Antapnal, wife of Mukund who is arraigned as Accused No. 1 in C.C.No.8792/2015. The second respondent in her complaint has specifically stated that her husband and his parents initially though did not make any demand for dowry, this had changed gradually and they had started demanding things specifically as regards the location for the engagement and also demanded that the entire expenditure be borne by her parents. Accordingly, the entire expenditure of Rs.1,00,000/- towards engagement was borne by her parents. It is also relevant to refer to paragraph 13 of her typed complaint stating that her mother-in-law used to force her to ask for a share from her parent's property. When she refused, they are alleged to have harassed her. The complainant's husband used to join his mother whenever she used to scold the complainant and used to

4. Learned counsel for the petitioner has taken me harass her. However, there is no crime registered by filing a complaint by this Shruthi Antapnal who is arraigned as Respondent No.2 in this petition prior to the present complaint filed by her. In respect of these allegations, it is contended by the learned counsel for the petitioner that even at a cursory glance of the hand-written statement at paragraph 7 of the complaint, reveals that the allegations are only against her husband Mukund to take appropriate legal action against him. It does not specifically state about her in laws who were arraigned as Accused Nos.2 and 3 in C.C.No.8792/2015 arising out of Cr.No.369/2013

registered by the Jnanabharathi P.S., Bangalore, for the offences reflected in the FIR said to have been recorded by the police.

5. It is further contended that after several due deliberations and the elders and well-wishers citing that her in-laws were the main reason for the sufferings, had suggested the husband and wife to live in a separate house and though they started living in a separate house, again, her husband Mukund did not stop his harassment and started picking up fights with the second respondent, which has been stated at paragraph 18 of her complaint. Even prior to the filing of this complaint dated 28.09.2013, she did not file any written complaint or any oral complaint before the police having jurisdiction to register the crime against the accused. That itself indicates that her modus operandi is only to rope her in laws as accused in C.C.No.8792/2015 arising out of Cr.No.369/2013. On this premise alone, power under Section 482 Cr.P.C. to quash the criminal proceedings against Petitioners/Accused Nos.2 and 3, ought to be exercised.

6. Apart from these grounds urged by the learned counsel for the petitioner, he has also referred to Document No.2 of M.C.No.33/2013. This petition is filed by Mukund, the husband of Shruthi Antapnal under Section 3 (1) (1A) of the Hindu Marriage Act for divorce. Though this petition has been withdrawn as this submission is made by the respondent and also indicates that in this petition seeking dissolution of her marriage dated 30.11.2018 held between Mukund and Shruthi Antapnal.

It is relevant to state that Smt. Shruthi Antapnal had given birth to a female baby, which child is in the care and custody of her mother. However, there is a family dispute emerged in between Mukund/accused No.1 and Smt. Shruthi Antapnal who is none other than the wife of Mukund. But the present petitioners have been unfairly lugged in the alleged crime which involves between the husband and wife, which has caused mental harassment to the petitioners/in-laws of Shruthi Antapnal. There is no specific overt act attributed against petitioners/Accused Nos.2 and 3 that they had committed offences under Section 498-A IPC and so also under Sections 3 and 4 of the DP Act. The complaint has been filed by the second respondent arraigning the petitioners as well in order to wreck vengeance for the divorce petition filed by their son Mukund/accused no.1 in C.C.No.8792/2015. A prudent man can infer that the allegations made out in the complaint are baseless and concocted for the purpose of initiating false criminal proceedings.

The complainant has initiated proceedings against the petitioners just to harass her husband and his family members by implicating them for the allegations that they have given physical as well as mental harassment and also were demanding money. When there is no specific allegation made in the complaint, certainly it can be inferred that the complaint filed by her is just to cause harassment

to the petitioners, which is an abuse of process of law. Therefore, it requires intervention of this court by exercising powers under Section 482 of Cr.P.C., if not, certainly there shall be miscarriage of justice to the gravamen of the accused and so also, abuse of process of law. On this premise, the counsel for the petitioners seeks for allowing these petitions by considering the grounds as urged.

7. Learned HCGP for the respondent State has taken me through the allegations made in the typed complaint filed by the complainant which runs to seven pages. In paragraph 4 of the complaint, it reveals that during marriage, the second respondent's parents had provided several items as detailed in the list provided by the complainant in the said paragraph. Subsequent to their marriage, the second respondent had given birth to a female-baby, and since petitioners had expected a male baby, they had meted out physical as well as mental harassment to the second respondent. According to her complaint, the petitioners herein had forced her to ask for a share in her father's property and also forced her several times to give them money, since the second respondent was earning.

Hence, the learned HCGP for the State contends that in view of the aforesaid facts, the present petitioners/in laws have been arraigned in the complaint filed by the complainant. The allegations made in the complaint requires to be tested on the part of the prosecution and so also subjected to cross-examination in order to arrive at a conclusion that there is no prima facie material against the accused for commission of offence. As a result, C.C.No.8792/2015 has been registered against the petitioners as well and hence contends that the petitioners/Accused Nos. 2 and 3 require to face trial in the aforesaid case pending on the file of the IX Addl. CMM, Bangalore. These are all the contentions as taken by learned HCGP for the State and seeking for dismissal of the petitions filed by the accused.

8. It is in this context of the contentions taken by the learned counsel for the petitioners and so also, counter made by learned HCGP for the respondent-State it is relevant to refer that second respondent/Shruthi Antapnal being the wife of Mukund/first accused in C.C.No.8792/2015 had initiated a complaint against her husband Mukund, her father in law Sri Ramaprasad/petitioner no.1 herein and mother-in-law Smt. Padma Ramprasad/petitioner no.2 herein. In the said complaint, allegations are made that her husband and her in-laws had given physical as well as mental harassment and demanded dowry. But if really there was any sort of harassment extended to her, the second respondent would have lodged the complaint in the first instance itself. Her complaint itself reveals that she was disturbed by her husband's behavior and only in order to give some mental harassment and in order to wreck vengeance, she has arraigned her father-in-law and her mother-in-law/petitioners herein, in her complaint. But there is no any sort of physical or mental

harassment alleged to be meted out to her by the present petitioners so as to attract the ingredients of Section 498A of IPC. Further, though the complainant has stated in her complaint that there was demand of dowry by the petitioners herein, there is no material produced to the said effect. It can be inferred from the allegations made in the complaint and the substance in the FIR, petitioners have been dragged into the criminal proceedings with a view to tarnish their image in the society. When such being the case, question arises as to whether power under Section 482 Cr.P.C. requires to be exercised.

9. In this background, it is relevant to refer to the scope of Section 482 of the Cr.P.C. wherein Section 482 Cr.P.C., has to be exercised exercised judicially, judiciously, sparingly and cautiously, to prevent the abuse of the process of the court and shall not be miscarriage of justice against gravamen of accused. But there shall be justification for interference only when the complaint do not disclose any offence or when the complaint is frivolous and vexatious and it shall not embark upon an enquiry whether the evidence in the case is reliable or not.

10. In the instant petition, complaint has been filed by Shruthi Antapnal who is none other than the daughter in-law of Accused Nos.2 and 3/petitioners herein. She has instituted the typed complaint before the Jnanabharathi P.S., specifically stating that during her marriage talks, the petitioners had demanded dowry. But however, in her complaint at page 7, she has specifically stated in her own hand-writing that the delay in filing the complaint against him (her husband Mukund) thinking that would change his behaviour. But since she did not find any development in him (her husband), she had requested the police to take necessary legal actions against them. Hence, it reveals that she was very much disturbed by her husband's behaviour and only because of that reason she was filing the complaint against her husband as well as her in-laws. By filing the complaint arraigning her father-in-law and mother-in-law as the accused, she seeks to wreck vengeance against her husband Mukund.

11. It is relevant to refer to the scope of Section 482 of Cr.P.C. that while exercising such power, the High Court would not ordinarily embark upon an enquiry as to whether the evidence in question is reliable or not, which is the function of the Trial Court. However, the inherent jurisdiction under section 482 has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It was referred in the case of Monica Kumar v/ s State of UP (2008) 8 SCC781. It is well settled that inherent power of the Court under section 482 of Cr.P.C. can be exercised only when no other remedy is available to the litigant and not various specific remedies are provided by the Statute. Further the power being an extra ordinary

one, it has to be exercised sparingly and further, the inherent power under section 482 of Cr.P.C shall be exercised to quash the proceedings only when there is abuse of the process of any court.

12. It is further relevant to refer to the judgment rendered by the Hon'ble Supreme Court of India in the case of State of Karnataka v/ s L. Muniswamy and Others reported in AIR 1977 SC 1489 wherein it is stated that in exercise of this wholesome power, the High Court is entitled to quash the proceedings if it comes to conclusion that allowing the proceedings to continue would be an abuse of process of the Court or that the ends of justice required that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution the very nature of material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceedings in the interest of justice. Further, it is important to note that, the essential ingredients of the provision of Section 498A of the IPC, 1860 are, a woman must be married and she must be subjected to cruelty either physically or mentally.

Merely being a married woman and merely filing a complaint by the wife against her husband and in-laws, it cannot be held that the ingredients of the aforesaid offences have been constituted for commission of the said offence. The cruelty as defined in Section 498- A of the IPC remains established only by facilitating worthwhile material evidence, though the said fact is borne out in the complaint. When once the main ingredient has not come forth either in the complaint or reflected in the FIR said to have been recorded by the police, then the question of proceeding against the accused under Section 498A IPC, does not arise.

13. Whereas in the instant case, it is relevant to state that the allegation made in the FIR and complaint are so absurd and improper on the basis of which no prudent man can reach a just conclusion that there is sufficient ground for proceeding against the petitioners arraigned as Accused Nos.2 and 3 and it is said that the said proceedings initiated by her is manifestly attended with mala fide with an ulterior motive for wreaking vengeance on the accused and with a view to spite them due to some personal grudge.

14. In the case on hand, the material evidence collected in support of the allegations do not disclose the commission of offence and do not make out the case against accused Nos.2 and 3 that they have given physical as well as mental harassment to her and also demanded dowry. Therefore, there is no hesitation in quashing the FIR and the charge sheet laid by the IO against the accused in

C.C.No.8792/2015 for the offences punishable under Sections 498A, r/ w 34 of IPC beside Sections 3 and 4 of the Dowry Prohibition Act, 1961.In terms of the aforesaid reasons and findings, I proceed to pass the following:

ORDER

CrI.P.No.3140/2016 filed by the petitioners/accused Nos.2 and 3 is hereby allowed.Consequently, the proceedings in C.C.No.8792/2015 arising out of Cr.No.369/2013 pending before the Court of IX Addl. CMM, Bangalore, in respect of the present petitioners/Accused Nos.2 and 3 are hereby quashed. Whatever observations made in this order shall not influence the mind of the Trial Court where Accused No.1/Mukund is facing trial in C.C.No.8792/2015.The said case in C.C.No.8792/2015 pending before the IX Addl.CMM, Bangalore is directed to be disposed of on merits, in accordance with law. Consequence upon disposal of the main petition, I.A.No. 1/2020 is dismissed as it does not survive for consideration.