



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 88 OF 2023

BETWEEN:

1.

2.



...PETITIONERS

(BY SRI RAKSHIT K. S., ADV.)

AND:

1. STATE OF KARNATAKA
BY EAST ZONE WOMENS P.S
REP BY PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU - 560 066.



2.

...RESPONDENTS

(BY SRI TOMY SEBASTIAN, SR. COUNSEL FOR
SRI MELANIE SEBASTIAN, ADV. FOR R-2
SRI THEJESH P, HCGP FOR R-1)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR AND INFORMATION DATED 22.09.2022 PREFERRED BY THE RESPONDENT NO.2 AND REGISTERED BY THE RESPONDENT NO.1 POLICE BEARING CR.NO.163/2022 OF EAST ZONE WOMEN POLICE STATION, ON THE FILE OF VI ADDL.C.M.M., BENGALURU FOR THE OFFENCE P/U/S 498A, 323, 324, 307, 420, 504 AND 506 R/W 34 OF IPC WHEREIN THE PETITIONERS HEREIN ARE ARRAINGED AS ACCUSED NO.4 AND 9 VIDE (ANNEXURE-A AND B).

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

ORDER

1. Petitioners - accused Nos.4 and 9 are before this Court calling in question registration of a crime in Crime No.163/2022 registered for the offences punishable under Sections 498A, 323, 324, 307, 420, 504, 506 and 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.
2. Heard Sri. Rakshith K. S., learned counsel for the petitioners, Sri. Tomy Sebastian, learned Senior counsel along with



Sri. Melanie Sebastian, learned counsel for respondent No.2 and Sri. Thejesh P, learned HCGP for respondent No.1.

3. The facts adumbrated are as follows:-

Accused No.1 and the complainant are husband and wife. It transpires that the marriage has taken place on 07.02.2022. It further transpires that the relationship between husband - accused No.1 and the complainant flounders. On such floundering of the relationship, the impugned crime comes to be registered in Crime No.163/2022 for the aforesaid offences while accused Nos.1 to 3 and 5 to 8 are all members of the family or the mother-in-law or father-in-law as the case could be. These petitioners are arraigned as accused Nos.4 and 9. The relationship between first petitioner - accused No.4 even according to the complainant is she is a paramour of the husband - accused No.1 and second petitioner - accused No.9 is the mother of accused No.4 - first petitioner.

4. This Court in terms of its order dated 22.02.2023 has stayed further investigation against these petitioners and the said interim order is subsisting even as on date.

5. Learned counsel for the petitioners taking this Court through the documents appended to the petition with particular reference to the complaint would seek to demonstrate that there is not even a sprinkling reference to these petitioners which would touch upon the



ingredients of any of the offences so alleged against the petitioners. It is his submission that without any rhyme or reason, these petitioners are drawn into the web of investigation in Crime No.163/2022.

6. Per contra, learned Senior counsel Sri. Tomy Sebastian appearing for the complainant - respondent No.2 would seek to refute the submissions contended that the police after investigation have filed charge sheet against all other accused. The offences are grave and what is found in the summary of the charge sheet would clearly indicate that first petitioner is responsible for all the happenings in the life of accused No.1 or the family members. While insofar as the mother of first petitioner is concerned, learned Senior counsel would accept that there is no allegation that can touch upon any of the offences so alleged.

7. I have given my anxious consideration to the submissions made by learned counsel for the parties and have perused the material on record.

8. The afore narrated facts are not in dispute. The link and the dates and events are all a matter of record. Since, the entire issue has now sprung from the complaint, I deem it appropriate to notice the complaint not, in its entirety but insofar as it is germane to the



lis. The reference made to these petitioners in the complaint reads as follows:-

"ಮದುವೆಯ ಮುಂಚೆ ಮತ್ತು ಮದುವೆಯ ನಂತರವೂ ಸಹ ಅವರ ಸಂಬಂಧಿ ಎಂದು ಹೇಳಿಕೊಳ್ಳುತ್ತಿದ್ದ ಚೆನ್ನೈನ ನಂ.3039, ಹರಿಹಂತ್ ಸಂಗೀತ್ 1ನೇ ಮಹಡಿ, 13ನೇ ಮುಖ್ಯರಸ್ತೆ, ಅಣ್ಣಾನಗರ ವಾಸಿ ಶ್ರೀಮತಿ ನಂದಿನಿಯವರೊಂದಿಗೆ ಮತ್ತು ಅವರ ಕುಟುಂಬದವರೊಂದಿಗೆ ತುಂಬಾ ಅನ್ಯೋನವಾಗಿದ್ದು ಮತ್ತು ತುಂಬಾ ಹತ್ತಿರವಿದ್ದಂತೆ ವರ್ತಿಸುವುದು. ದೂರವಾಣಿ ಕರೆಗಳನ್ನು ಮಾಡುವುದು, ಓಡಾಡುವುದನ್ನು ನಾನು ಸೂಕ್ಷ್ಮವಾಗಿ ಗಮನಿಸಿ ಅನುಮಾನಗೊಂಡು ನಾನು ಅವರ ಬಗ್ಗೆ ವಿಚಾರಿಸಲಾಗಿ ನಮ್ಮ ಸಂಬಂಧಿಕರಿಂದ ತಿಳಿದಿದ್ದೇನೆಂದರೆ ಶ್ರೀಮತಿ ನಂದಿನಿಗೆ ಮದುವೆಯಾಗಿದ್ದು ಆಕೆಯ ಗಂಡ ಸುಮಾರು ದಿನಗಳಿಂದ ಕೆನಡಾದಲ್ಲಿದ್ದಾನೆ. ಅವರಿಬ್ಬರೂ ಬೇರೆಯಾಗಿದ್ದಾರೆ. ಮತ್ತು ಗಣೇಶ್, ನಂದಿನಿ ಗೌಪ್ಯವಾಗಿ ಮದುವೆಯಾಗಿದ್ದು ಸಂಸಾರ ಸಹ ಮಾಡುತ್ತಿದ್ದು ನಮ್ಮ ಮದುವೆಗೆ ಒಂದು ದಿನದ ಮೊದಲು ನಂದಿನಿಗೆ ಮಗುವಾಗಿದ್ದು ಅವರ ತಂದೆ ಗಣೇಶ್ ರವರೇ ಆಗಿರುತ್ತಾರೆಂದು ತಿಳಿದಾಗ ನನಗೆ ಧಿಕ್ಕುತೋಚಿದಂತಾಗಿ ಈ ವಿಷಯದ ಬಗ್ಗೆ ಮೊದಲು ನಮ್ಮ ಆತ್ಮ ಮತ್ತು ನಮ್ಮ ಗಂಡನನ್ನು ವಿಚಾರಿಸಲಾಗಿ ನನ್ನ ಗಂಡ, ಅತ್ತೆ ಮೈದುನ ಮೂರು ಜನ ನನ್ನನ್ನು ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ನಿಂದಿಸಿ ಇದೆಲ್ಲ ಸುಳ್ಳು ಎಂದು ಹೇಳಿರುತ್ತಾರೆ. ಮತ್ತೆ ನಾನು ನಂದಿನಿಯವರ ಅತ್ತೆಯವರ ಬಳಿ ವಿಚಾರಿಸಲಾಗಿ ಅವರು ನಂದಿನಿ ಮತ್ತು ಗಣೇಶ್ ರವರ ಸಂಬಂಧದ ಬಗ್ಗೆ ತಮ್ಮ ಅಳಲನ್ನು ತೋಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಮತ್ತು ಅವರ ಮಗನಿಂದ ನಂದಿನಿಗೆ ವಿಚ್ಛೇದನೆಯನ್ನೂ ಸಹ ನೀಡಲು ಮುಂದಾಗಿರುವ ಬಗ್ಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ.

ನಂತರ ಈ ವಿಷಯವನ್ನು ನಾನು ನಮ್ಮ ತಂದೆ ತಾಯಿಯವರಿಗೆ ತಿಳಿಸಲಾಗಿ ಅವರು ಮೇ ಮೊದಲನೇ ವಾರ ಚೆನ್ನೈಗೆ ಬಂದು ಗಣೇಶ್‌ರವರ ಕುಟುಂಬದವರೊಂದಿಗೆ ಮಾತನಾಡಲಾಗಿ ಆ ಮಾತುಕತೆಗೆ ಗಣೇಶ್ ಹಾಜರಾಗದೆ ತಪ್ಪಿಸಿಕೊಂಡಿರುತ್ತಾರೆ. ನಂತರ ನಮ್ಮ ಮನೆಯವರು ನನ್ನನ್ನು ಸಮಾಧಾನ ಪಡಿಸಿ ನನ್ನನ್ನು ಚೆನ್ನೈನಲ್ಲೇ ಬಿಟ್ಟು ಬೆಂಗಳೂರಿಗೆ ಬಂದಿರುತ್ತಾರೆ. ಮರುದಿನ ಬೆಳಿಗ್ಗೆ ಮನೆಗೆ ಬಂದ ನನ್ನ ಗಂಡ ತನಗೆ ಕಛೇರಿಯ ಕೆಲಸದ ಮೇಲೆ ಜರೂರು ಹೈದರಾಬಾದಿಗೆ ಹೋಗಬೇಕಾಗಿದೆ, ಆರು ದಿನಗಳ ಕಾಲ ನಾನು ಇರುವುದಿಲ್ಲವೆಂದು ಲಗ್ನೇಜನ್ನು ಎತ್ತಿಕೊಂಡು ಹೊರಟು ಹೋಗಿರುತ್ತಾರೆ. ನಾನು ಅನುಮಾನ ಬಂದು ನನ್ನ ಗಂಡನ ಸಂಬಂಧಿಕರನ್ನು ವಿಚಾರಿಸಲಾಗಿ ನನ್ನ ಗಂಡ ಯಾವುದೇ ಕಛೇರಿಯ ಕೆಲಸದ ಮೇಲೆ



ಹೈದರಾಬಾದಿಗೆ ಹೋಗಿಲ್ಲ. ಅವರು ನಂದಿನಿಯೊಂದಿಗೆ ವಿಶಾಖಪಟ್ಟಣಕ್ಕೆ ಹೋಗಿರುತ್ತಾರೆಂದು ತಿಳಿದಿರುತ್ತದೆ ನಂತರ ನನ್ನ ಗಂಡ ವಿಶಾಖಪಟ್ಟಣದಿಂದ 15ನೇ ತಾರೀಖು ಮನೆಗೆ ಬಂದ ಮೇಲೆ ನಾನು ನನ್ನ ಗಂಡನ್ನು ಏಕೆ ಹೀಗೆ ಮಾಡುತ್ತಿದ್ದೀಯ ಎಂದು ನನ್ನ ರೂಮಿನಲ್ಲಿ ಕೇಳಲಾಗಿ ನನ್ನ ಗಂಡ ನನ್ನೊಟ್ಟಿಗೆ ಜಗಳ ತೆಗೆದು ಹೊಡೆದಿರುತ್ತಾನೆ."

9. A perusal at the said references in the complaint would indicate an affair between accused No.1 and first petitioner. Therefore, it cannot but be said that the first petitioner was a paramour. It is settled principle of law that a paramour of an accused cannot be dragged into proceedings under Section 498A of IPC as the said accused would not become a relative or a member of the family as is necessary under Section 498A of IPC thus, tumbles down the offence under Section 498A of IPC *qua* the first petitioner.

10. There are other offences also alleged. If the other offences alleged are pitted against what is narrated in the complaint, none of the ingredients of any of the offences can be found against the first petitioner - accused No.4 as the other offences are ones under Sections 323, 324, 307, 420, 504 and 506 of IPC. There is not even a titter of foundation laid in the complaint *qua* those offences against the first petitioner. Offences against first petitioner are therefore loosely laid. Second petitioner, the mother of first petitioner is on the face of it unnecessarily dragged into these proceedings as not even a sentence of semblance of ingredients being present *qua* the offences



so alleged. Therefore, if further proceedings are permitted to be continued, it would become an abuse of process of law.

11. Learned Senior counsel has placed entire charge sheet filed against other accused in the crime. The findings rendered herein would not in any way influence or bind any of the trial against any of the accused in the said proceedings.

12. Accordingly, the Criminal Petition is allowed. The entire proceedings in Crime No.163/2022 registered by East Zone Women Police Station, Pulakeshinagar Sub-Division, Bengaluru City, pending on the file of VI Addl. Chief Metropolitan Magistrate, Bengaluru, stands quashed, *qua* the petitioners.

**SD/-
JUDGE**

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