

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 19TH DAY OF MARCH, 2024
BEFORE
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 101857 OF 2023

BETWEEN:

1. **SHRI. ARUNKUMAR**
S/O. KALLAPPA KOTAMBARI, AGE. 34 YEARS,
OCC. WARDEN AT HINDALGA JAIL, BELAGAVI,
R/O. CENTRAL PRISON, HINDALGA, BELAGAVI-591108,
TQ & DIST. BELAGAVI.
2. **SHRI. ANANDKUMAR**
S/O. KALLAPPA KOTAMBARI, AGE. 35 YEARS,
OCC. ASSISTANT TEACHER, GOVERNMENT HIGH SCHOOL, BIJJAHALLI,
R/O. BIJJAHALLI, TQ. KANAKAPURA, DIST. RAMANAGARA, PIN CODE-562119.
3. **SOU. SHIVAGANGA**
W/O. KALLAPPA KOTAMBARI, AGE. 59 YEARS,
OCC. HOUSEWIFE,
R/O. KALLATI GALLI, AT. TERDAL, JAMKHANDI, DIST. BAGALKOT-587315.
4. **SHRI. KALLAPPA**
S/O. CHANNAPPA KOTAMBARI, AGE. 63 YEARS,
OCC. RETIRED SCHOOL TEACHER,
R/O. KALLATI GALLI, AT. TERDAL, JAMKHANDI, DIST. BAGALKOT-587315.
5. **MISS. GEETA**
D/O. KALLAPPA KOTAMBARI, AGE. 37 YEARS,
OCC. PRIVATE SCHOOL TEACHER,
R/O. GURUBRAHMANANDNAGAR, NEXT TO JADI GODOWN, AT. TERDAL,
JAMKHANDI, DIST. BAGALKOT-587315.

(BY SRI. DIWAKAR G. BHAT, ADVOCATE)

AND:

1. **STATE OF KARNATAKA**
R/BY STATION INCHARGE, WOMEN POLICE STATION,
BELAGAVI CITY, BELAGAVI-590001,
R/BY STATE PUBLIC PROSECUTOR, HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-590011.
2. **SOU. VIJAYALAXMI**
W/O. ARUNKUMAR KOTAMBARI, EARLIER TO MARRIAGE KNOWN AS
VIJAYLAXMI D/O BHIMAPPA GARADALE, AGE. 31 YEARS,
OCC. WARDEN IN HINDALAGA JAIL,
R/O. C/O. ESHWAR GAVADE, 1ST FLOOR, MANJEREKAR COLONY,
HINDALAGA, TQ & DIST. BELAGAVI, KARNATAKA-591108.

(BY SRI. PRAVEEN K. UPPAR, AGA FOR R1; SRI. PRASHANT F. GOUDAR, ADVOCATE FOR R2)

ORDER

1. The petition is filed by the accused Nos. 1 to 5 praying to quash all proceedings including the complaint, FIR, and charge sheet in C.C. No. 718/2023 pending on the file of II JMFC Court, Belagavi, registered for the offences punishable under Section 498(A), 323, 354, 504, 506 r/w 34 of IPC.
2. Heard learned counsel for petitioners and learned AGA for respondent No.1-State and learned counsel for respondent No.2.
3. A case was registered on the first information filed by respondent No.2 in Crime No.3/2023 of Belagavi City Women Police Station for the offence punishable under Sections 498(A), 323, 354, 504, 506 r/w 34 of IPC. The police, after investigation, filed a charge sheet against the petitioners for offences punishable under Section 498(A), 323, 354, 504, 506 r/w 34 IPC. On the basis of the said charge sheet, learned Magistrate has taken cognizance and registered a case in C.C. No.718/2023. The proceedings of the said criminal case are prayed to be quashed in the present case.
4. The learned counsel for petitioners contended that the marriage between petitioner No.1 and respondent No.2 was performed on 20.08.2021 at Belagavi. Immediately after some months of marriage, petitioner No.1 filed a petition seeking divorce in FR.MC No.148/2022, which was rejected as premature by order dated 20.04.2022. Thereafter, he filed a divorce petition in MC No.432/2022 on 17.09.2022, which is pending. He submits that the averments in the divorce petitions indicate no coordination and cooperation between husband and wife, and respondent No.2 is a quarrelsome lady. Therefore, the husband sought divorce on grounds of cruelty.
5. Learned counsel for the petitioners further submits that conciliation has been held, which failed, indicating that both husband and wife stayed together only for two to three days, and their marriage was consummated. Earlier, respondent No.2 approached the Police on two occasions for minor disputes. Respondent No.2 also requested the superior officer of petitioner No.1 to prevent his transfer, fearing he might marry another lady. Respondent No.2 has initiated proceedings under the Protection of Women from Domestic Violence Act, and there is a Domestic Violence report enclosed, indicating she is ready to join her husband. He contends that the complaint lacks a specific date for the alleged incident and was filed with a delay of over a year. Respondent No.2, an educated lady working as a warden, has filed the complaint on grounds that petitioner No.1 refused to take her back and married another lady. He argues that the complaint is an abuse of process and seeks to quash the proceedings.
6. Counsel for respondent No.2 contends that specific allegations exist against each petitioner for mentally and physically harassing respondent No.2. Earlier, respondent No.2 approached the police twice. The complaint and statements from her relatives indicate a prima facie case against the petitioners for the alleged offences. He argues that there are no grounds for quashing the proceedings.

7. Learned HCGP contends that respondent No.2, a divorcee, agreed to marry petitioner No.1 at his insistence, but quarrels began shortly after marriage. The police are also investigating the alleged second marriage of petitioner No.1.
8. Learned counsel for respondent No.2 argues that the second marriage of petitioner No.1 amounts to cruelty.
9. Respondent No.2 was a divorcee, and both parties worked as wardens at District Prison, Belagavi. Their marriage was performed on 20.08.2021. The respondent No.2 stayed with petitioner Nos.1 to 4 initially and later with petitioner No.1 in Belagavi. Petitioner No.1 filed a divorce petition on 22.03.2022, dismissed as premature, and another petition on 17.09.2022, which is pending. Conciliation reports indicate petitioner No.1 is not willing to take respondent No.2 back, though she is ready to join him.
10. The respondent No.2 approached the police twice regarding minor disputes and requested that petitioner No.1 not be transferred. She also initiated proceedings under the Protection of Women from Domestic Violence Act. The Domestic Violence report indicates respondent No.2 is ready to join her husband, but alleges that petitioner Nos.2 to 5 harassed her.
11. The complaint lacks specific dates of the alleged incidents and indicates that harassment occurred before December 2021. The complaint was filed on grounds of petitioner No.1's refusal to reunite and his second marriage. The delay in filing the complaint suggests it may be an afterthought. The charge sheet material and documents indicate the filing of the complaint is an abuse of process.
12. Therefore, proceedings against the petitioners are quashed.

ORDER

Petition is allowed. Proceedings against the petitioners in C.C. No.718/2023 (Belagavi City Women Police Station at Crime No.03/2023) pending on the file of II JMFC Court, Belagavi are hereby quashed.

Sd/-

JUDGE

HMB CT

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MARCH, 2024

PRESENT:

THE HON'BLE MRS. JUSTICE K.S. MUDAGAL

AND

THE HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

MFA NO. 255 OF 2023 (MC)

BETWEEN:

SRI. K. K. APPAINAH (MANJU)

S/O K A KUTTAPPA

AGED ABOUT 39 YEARS

R/AT THADACHIKAD ESTATE

AITHUR VILLAGE AND POST

VIRAJPET TALUK

KODAGU DISTRICT - 571 215

... APPELLANT

(By Sri. S.V. Suryavanshi, Advocate for Sri. Sachin B.S., Advocate)

AND:

SMT. TEENA C. N.

D/O NANJAPPA (GANESH)

W/O K K APPAIAH

TEENA COTTAGE

NANGALA VILLAGE AND POST

RENUKAMBA VIRAJPET TALUK

KODAGU DISTRICT - 571 215

... RESPONDENT

(Served and Unrepresented)

THIS MFA IS FILED UNDER SECTION 28(1) OF THE HINDU MARRIAGE ACT, CHALLENGING THE JUDGMENT AND DECREE DATED 09.09.2022 PASSED IN MC NO. 27/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE, VIRAJPET, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(IA) OF THE HINDU MARRIAGE ACT, FOR DISSOLUTION OF MARRIAGE WITH COST.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, K.S. MUDAGAL J., DELIVERED THE FOLLOWING:

JUDGMENT

1. Heard.

2. Challenging the award of permanent alimony of Rs.10,00,000/- to the respondent in M.C.No.27/2015 on the file of Senior Civil Judge, Virajpet, the petitioner has preferred this appeal.
3. The appellant was the petitioner and the respondent was the respondent in MC No.27/2015 before the Trial Court. For the purpose of convenience, the parties are referred to henceforth according to their ranks before the Trial Court.
4. The marriage of the petitioner and the respondent was solemnized on 05.02.2012. The marriage did not proceed smoothly. The respondent filed Cr.M.C.No.331/2015 before the Civil Judge and JMFC, Ponnampet, alleging that the petitioner and his family members subjected her to domestic violence. Accepting her allegations, the Civil Judge and JMFC, Ponnampet awarded monthly maintenance of Rs.15,000/- with escalation at 5% every year, along with compensation of Rs.2,00,000/- for misappropriation of jewelry and Rs.5,00,000/- as compensation for domestic violence.
5. The petitioner filed M.C.No.27/2015 before the Trial Court seeking a decree for dissolution of marriage on the grounds of cruelty. The respondent contested the petition, denying the allegations of cruelty and claiming that the petitioner was guilty of cruelty. The Trial Court allowed the petition for dissolution of marriage and granted Rs.10,00,000/- as permanent alimony to the respondent and litigation expenses of Rs.30,000/-. The Court held that upon payment of such permanent alimony and litigation expenses, the petitioner need not pay future maintenance as per the Cr.M.C.No.331/2015 order.
6. The respondent has not challenged the decree for dissolution of marriage or the quantum of permanent alimony. The petitioner/appellant challenges only the judgment and decree regarding the grant of permanent alimony. The respondent/wife, though served, remains unrepresented.
7. Learned counsel for the petitioner/husband argues that the petitioner owns only 3 acres 60 cents of land and his qualification is only PUC, whereas the wife is an MBA graduate and employed. Hence, the permanent alimony awarded is claimed to be excessive.
8. Records show that despite the respondent seeking permanent alimony and filing her assets and liabilities statement, the petitioner did not file his assets and liabilities statement or produce evidence regarding his qualification. In his cross-examination, he admitted that he was a Coffee Planter with a family-owned 23 acres of Coffee Plantation and deals in vehicles, receiving commissions. He has claimed that his property was sold, but no material was produced to substantiate this.
9. The petitioner admitted during cross-examination that he married the respondent because she matched his status. His contention that he is less qualified compared to the respondent was rightly rejected by the Trial Court. He had not challenged the maintenance awarded in the Protection of Women from Domestic Violence Act proceedings and deposited the compensation awarded in those proceedings.
10. Evidence shows the appellant did not submit his assets and liabilities statement, and an adverse inference regarding his paying capacity was drawn. The Trial Court's award of Rs.10,00,000/- as permanent alimony was based on a judicious appreciation of evidence. There are no grounds to interfere with this decision.

ORDER

The appeal is dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MARCH, 2024

BEFORE:

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 5821 OF 2018

BETWEEN:

1. **SRI. GOPAL D.H.**
S/O LATE DALI HANUMANNA,
AGED ABOUT 66 YEARS
2. **SMT. LAKSHMI**
W/O GOPAL D.H.,
AGED ABOUT 59 YEARS

ALL RESIDING AT:

26/2, CAR STREET,
DODDABALLAPURA TOWN,
BANGALORE RURAL DISTRICT - 561 203

(By Sri. Subash Reddy V., Advocate)

PETITIONERS

AND:

SMT. PADMASHREE

W/O D.G. MANJUNATH,
AGED ABOUT 31 YEARS,
PRESENT RESIDING AT:
NO.1050, CHANDRASHEKARAPURA,
DODDABALLAPURA TOWN,
BANGALORE DIST - 561 203

(By Sri. B.S. Murali, Advocate)

RESPONDENT

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PETITION FILED BY THE RESPONDENT UNDER SECTIONS 12, 18, 19, 20, AND 22 OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 AND THE ENTIRE PROCEEDINGS ON THE FILE OF CRL.MISC.NO.92/2018, PENDING BEFORE THE PRINCIPAL CIVIL JUDGE AND JMFC DODDABALLAPURA.

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

ORDER

1. The petitioners seek the following reliefs:

(a) To quash the petition filed by the respondent and the entire proceedings in C.Misc. No. 92/2018, pending before the Principal Civil Judge & JMFC, Doddaballapura, and

(b) To award costs and pass other orders or directions as deemed fit by the Court to meet the ends of justice.

2. A memo dated 15.03.2024 has been filed and signed by the counsel for the petitioners, stating:

"The petitioners most respectfully submit this Hon'ble Court that in view of the settlement arrived between the petitioner and the respondent, and with the matter being disposed of by order dated 21.03.2023 in M.F.A.No.7355/2020 (M.C.), this criminal petition will no longer survive for consideration. There is no domestic relation between the petitioner and the respondent. Hence, it is prayed that this Hon'ble Court dismiss this criminal petition as having become infructuous in the interest of justice and equity."

3. Accepting the memo and the submission of the counsel for the petitioners, the petition is dismissed as settled out of Court.

Sd/-

JUDGE

GJM CT: SNN

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 14TH DAY OF MARCH, 2024

BEFORE:

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CIVIL PETITION NO. 100012 OF 2024

BETWEEN:

SMT. DEEPIKA W/O. ABHISHEK BAGRECHA

D/O. CHOPARNENMAL,
AGED ABOUT 36 YEARS,
NO.7, CHAMUNDI VIHAR LAYOUT,
BEHIND CHAMUNDI VIHAR STADIUM,
NAZARABAD - 570010.

(By Miss. P. Pooja, Advocate)

PETITIONER

AND:

SRI. ABHISHEK BAGRECHA

S/O. RAMESH KUNAL,
AGED ABOUT 35 YEARS,
NO.94, 2B, 2C, FORT MAIN ROAD,
NEAR JAIN TEMPLE,
TQ AND DIST: BALLARI - 583102.

RESPONDENT

(Notice to respondent served)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF CPC, 1908, PRAYING TO CALL THE RECORDS IN M.C.NO.186/2023 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT AT BALLARI AND TO TRANSFER THE PETITION IN M.C.NO.186/2023 TO THE PRINCIPAL FAMILY JUDGE AT MYSURU AND ETC.

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

ORDER

1. This petition is filed under Section 24 of CPC seeking to transfer MC No.186/2023 pending before the Principal Judge, Family Court, Ballari to the Principal Judge, Family Court, Mysuru.
2. Heard Miss P. Pooja, learned counsel for the petitioner. Though notice of this petition is served on the respondent, he remains absent and is placed ex-parte.

3. The petitioner's counsel submits that the marriage between the petitioner and respondent was solemnized on 6.12.2014. The respondent allegedly left the petitioner at her parents' house and has since neglected her. The couple has a male child born on 6.5.2022. The petitioner claims the respondent has subjected her to cruelty, forcing her to live with her parents in Mysuru. Given that the petitioner has an 18-month-old baby, traveling to attend proceedings at Ballari is challenging.
4. On reviewing the records, it is clear that the petitioner is residing with her parents in Mysuru and lacks the means to travel to Ballari. The petitioner is a homemaker with no independent source of income. The respondent has initiated proceedings under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights, while the petitioner has filed proceedings under the Protection of Women from Domestic Violence Act, 2005, seeking maintenance and other reliefs in Mysuru.
5. Considering the convenience of the parties and the pendency of related proceedings in Mysuru, it is appropriate to transfer MC No.186/2023 from Ballari to Mysuru.

ORDER

a) The Civil Petition is allowed.

b) MC No.186/2023 pending before the Principal Judge, Family Court, Ballari is withdrawn and transferred to the Principal Judge, Family Court, Mysuru for trial in accordance with the law.

Sd/-

JUDGE

JTR