

2010 SCC OnLine Kar 5210 : (2011) 2 Kant LJ 138 : (2011) 4 KCCR 3118 :
(2011) 2 CCR 456 : (2011) 2 DMC 405

In the High Court of Karnataka at Bangalore
(BEFORE H.S. KEMPANNA, J.)

Ravikumar and Others
Versus
State of Karnataka

Criminal Petition No. 1208 of 2010
Decided on May 18, 2010



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ORDER

1. The petitioners who are arrayed as accused 1 to 3 and 7 to 9 in Crime No. 5 of 2010 of Srirampuram Police Station have filed the present petition praying for grant of anticipatory bail.

2. The respondent-Srirampuram Police initially on the basis of the complaint filed by one Sri V. Ashwath who is the father of the victim Seema, on 13-1-2010 registered the above case against these petitioners and A4 to A6 for the offence punishable under Section 498-A read with Section 34 of the IPC only.

3. It is the case of the prosecution that these petitioners who are the husband, in-laws, brother-in-laws and sister-in-laws of the victim had subjected her to cruelty and harassment in the matrimonial house. Later, on the basis of further statement of the victim Seema, recorded on 23-1-2010 by the Taluka Executive Magistrate, which revealed that the victim sustained injuries on account of she having been pushed by the accused in the case from the 3rd floor of their house, the police sent an additional report to the jurisdictional Magistrate adding Section 307 of the Penal Code, 1860. As such, as on today, a case for the offences under Sections 498-A and 307 read with Section 34 of IPC has been registered against these petitioners and three others who are arrayed as A4 to A6 in this case.

4. The respondent-police on registering the case for the offence punishable under Section 498-A read with Section 34 of the IPC initially, A1 to A3, A7 and A8 approached the jurisdictional Sessions



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Court praying the grant of anticipatory bail and obtained an order in their favour. Later, as already pointed out, on the basis of the further statement of the victim recorded on 23-1-2010 by the Taluka Executive Magistrate, the offence under Section 307 of IPC came to be added. Therefore, all the accused in this case including these petitioners filed an application before the jurisdictional Sessions Judge praying for grant of anticipatory bail. The same came to be rejected. Thereafter, accused 4 to 6 in the case approached this Court under Section 438 of Cr. P.C. for grant of anticipatory

bail in Criminal Petition No. 1209 of 2010 and the same came to be allowed by this Court by order dated 30-3-2010.

5. Learned Counsel for the petitioners submitted that the petitioners had been granted anticipatory bail initially by the learned Sessions Judge. He further submitted that the police have added Section 307 of IPC after due deliberation falsely implicating the accused in view of the further statement of the victim recorded on 23-1-2010. Since the victim herself in her statement recorded before the Taluka Executive Magistrate on 16-1-2010, has revealed that she sustained injuries on account of fall which is fortified by the averments found in the first information filed by the father of the victim, there is no reason to decline the request of these petitioners also. He further submitted that the petitioners have met the medical expenses of the victim Seema amounting to Rs. 2,50,000/- for the treatment rendered to her in the hospital. He further submitted that one of the child born to the victim through the first petitioner is in the custody of the petitioners as on today. Taking all these factors into consideration, there is no reason to decline the request of the petitioners.

6. On the other hand, learned High Court Government Pleader vehemently submitted that the materials on record clearly discloses that these petitioners apart from subjecting the victim Seema to cruelty and harassment, both mentally and physically, have pushed her from the second floor of their house which has resulted in sustaining injuries on her person. That is further fortified from the statements of Kum. Thara, Kala Ganesh and Kavitha Pattabirao recorded on 16-1-2010. Apart from this, the first information filed by the father of the victim reveals that prior to the date of occurrence, the victim had come to his house and had complained of ill-treatment meted out to her in the matrimonial house. In the light of these material on record, as the petitioners have not made themselves available to the investigating agency so far, if they are granted the relief there is every possibility of tampering of the prosecution witnesses and absconding from taking the trial. Hence the petition be rejected.

7. The offences alleged as on today against the petitioners and three others who have been granted anticipatory bail are one under Sections 498-A, 307 read with Section 34 of IPC. The records reveal, as already pointed out that, initially the police have registered the case against the accused for the offence under Section 498-A read with Section 34 of IPC. At this stage, it is undisputed that A1 to A3 and A7 to A8 had been granted anticipatory bail by the jurisdictional Sessions Judge. It is only



on the basis of further statement of the victim recorded on 23-1-2010 by the Taluka Executive Magistrate, the police have added Section 307 of IPC. The record further discloses that prior to 23-1-2010, the Taluka Executive Magistrate has recorded the statement of the victim Seema on 16-1-2010, on which date statements of three witnesses have also been recorded. The statement of the victim recorded by the Taluka Executive Magistrate on 16-1-2010 reveals that, she has sustained injuries on account of fall from the second floor of her matrimonial house and that is further fortified from the allegations made in the first information filed by the father of the victim on 13-1-2010. Having regard to these materials which are on record, in my view, taking into consideration more particularly the statement of the victim recorded on 16-1-2010 by the Taluka Executive Magistrate and some of the accused including some of these petitioners having been granted anticipatory bail initially when the case was registered under Section 498-A read with Section 34 of IPC and further as this Court has also granted anticipatory bail to A4 to A6 after the case came to be registered for the offence under Section 307 of IPC and further taking into

consideration that the first petitioner has met all the medical expenses of the victim amounting to Rs. 2,50,000/-, as submitted by the learned Counsel for the petitioners, in the facts and circumstances of the case, I do not find any justification to decline the request of the petitioners.

8. In the result for foregoing reasons, I proceed to pass the following order:

ORDER

- (i) Criminal petition is allowed.
- (ii) The petitioners in the event of their arrest in Crime No. 5 of 2010 of Srirampuram Police Station, the said police are directed to release the petitioners on bail on each one of them executing a personal bond in a sum of Rs. 50,000/- with two sureties for the like sum to the satisfaction of the concerned police subject to the following conditions.—
 - (1) The petitioners shall surrender before the respondent-Srirampuram Police on or before 30-6-2010 for the purpose of arrest and release.
 - (2) They shall furnish their permanent address supported with documents issued by the Competent Authority.
 - (3) They shall make themselves available to the investigating officer as and when required for the purpose of investigation.
 - (4) They shall not tamper with the prosecution witnesses.

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