

Sri Parashiva vs State Of Karnataka By on 26 December, 2014

Author: B.Manohar

Bench: B.Manohar

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF DECEMBER 2014

BEFORE

THE HON'BLE MR.JUSTICE B.MANO HAR

CRIMINAL PETITION NO.7983/2014

BETWEEN:

1. Sri.Parashiva,
S/o.late Mayappa,
Aged about 62 years,
2. Smt.B.K.Anuradha,
W/o.Parashiva,
Aged about 50 years,

Both are r/at
Doddapalya village,
Arakere Hobli,
Srirnagapattana,
Mandya Dist.-571 415.

... PETITIONERS

(BY Sri.Rajashekar.S, Adv.)

AND:

State of Karnataka,
By Arakere Police Station,
Arakere,
Srirangapattana,
Mandya Dist.-571 415.

...RESPONDENT

(By Sri.K.Nageshwarappa, HCGP)

This Criminal Petition is filed u/s.438 Cr.P.C., praying to pass an Order directing the respondent/police to release the petitioners on anticipatory bail forthwith in the event of

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their arrest in Crime No.207/2014 for the offences
p/u/s.323, 498(A), 302, 304(B), 114 of IPC & u/s.3 & 4 of
DP Act.

This Criminal Petition coming on for orders, this day,
the Court made the following:-

ORDER

Petitioners have filed this petition under Section 438 of Cr.P.C., seeking for release on bail in the event of their arrest in Crime No.207/2014 of Arakere Polcie for the offences punishable under Sections 323, 498(A), 302, 304(B) and 114 IPC read with Sections 3 and 4 of the Dowry Prohibition Act.

2. The case of the petitioners is that their son Pradeep married D.S.Nikitha about two years back. After the marriage, there is a partition between the father and son with regard to the ancestral property. As per the release deed dated 29th September 2012, a share in the joint family property has been given to his son. From that day, he is living separately from the petitioners. However, Nikitha committed suicide on 14.11.2014 at about 5.30 p.m. The father of Nikitha filed a complaint against the husband as well as the father-in-law and mother-in-law alleging that due to the dowry harassment Nikitha committed suicide and to take action. On the basis of the said complaint, a case was registered against the husband as well as the father-in-law and mother-in-law of deceased Nikitha.

3. Petitioners have contended that from the date of marriage, the son and daughter-in-law are living separately. The petitioners have not demanded any dowry and they have not harassed their daughter-in-law. In spite of the same, father of Nikitha filed a false complaint including the name of the petitioners. Their application seeking for anticipatory bail was rejected by the III Addl. District and Sessions Judge, Mandya and sought for anticipatory bail.

4. Sri.Nageshwarappa, learned Govt. Pleader appearing for the respondent contended that in the complaint lodged by the father of Nikitha, it was clearly mentioned that at the instance of the petitioners, the son was demanding dowry. In view of the harassment given, Nikitha committed suicide. Hence, petitioners' role is also there in the death of Nikitha and they are not entitled for anticipatory bail.

5. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the Order passed by the III Addl. District and Sessions Judge, Mandya.

6. The records clearly disclose that in view of death of Nikitha on 14.11.2014, Sri.Shivalingegowda, father of the deceased filed a complaint. In the complaint, he has made allegation against his son-in-law and no allegation has been made against mother-in-law and father-in-law of the deceased. In the last para of the complaint, it was mentioned that at the instance of father and mother, Pradeep-husband of the deceased demanded for dowry has been made. Except that statement, there is no allegation. The complainant himself admitted that daughter and son-in-law were living happily after their marriage. Six months after the marriage, Pradeep addicted to bad

habits and started abusing their daughter and demanding dowry. The records further disclose that from the year 2012, Pradeep and Nikitha were living separately from the family of the petitioners. There is no role of the father-in-law or mother-in-law for the death of Nikitha. The petitioners are aged about 62 and 50 years, respectively. They are permanent residents of Mandya. There is no apprehension that they have the limits of the Court jurisdiction. The Hon'ble Supreme Court, in the latest Judgment reported in 2014 AIR (SCW) 3930 (ARNESH KUMAR v/s. STATE OF BIHAR), has laid down some of the guidelines for arrest of the relatives under Section 498-A of IPC. Paras 9 and 10 of the said Judgment reads as under:

"9. Our endeavour in this Judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

10. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C."

7. Hence, the petitioners are entitled for anticipatory bail. Accordingly, I pass the following Order:

Petition is allowed. In the event of the arrest of the petitioners by Mandya Police in Crime No.207/2014, the petitioners shall be released on bail subject to the following conditions:

- i) Petitioners shall execute a personal bond for a sum of `25,000/- each with two sureties for the like sum to the satisfaction of the jurisdictional police;
- ii) Petitioners shall not tamper with the prosecution witnesses and the evidence;
- iii) Petitioners shall appear before the Police as and when they are required for investigation;
- iv) The anticipatory bail shall be in force for a period of six months. In the mean time, the petitioners shall seek for regular bail.

Sd/-

JUDGE bnv*