

Smt Parvathamma vs State Of Karnataka on 5 October, 2016

Author: R.B Budihal

Bench: R.B Budihal

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 5TH DAY OF OCTOBER, 2016
BEFORE
THE HON'BLE MR.JUSTICE BUDIHAL R.B.

CRIMINAL PETITION NO.5521/2016

BETWEEN:

1. SMT.PARVATHAMMA
W/O RAJAPPA
AGED ABOUT 48 YEARS.
2. SRI.RAJAPPA @ MUNIRAJAPPA
S/O RAMAPPA @ RAMAIAH
AGED ABOUT 60 YEARS.
3. SRI.S.M.MUNIKRISHNAPPA
S/O RAJAPPA
AGED ABOUT 29 YEARS.

ALL RESIDING AT
SHAMASHETHIHHALLI VILLAGE
MASTHI HOBLI
MALUR TALUK - 562 102.

... PETITIONERS

(BY SRI VEERANNA.G.TIGADI, ADV.,)

AND:

STATE OF KARNATAKA
REPRESENTED BY THE
SUB-INSPECTOR OF POLICE
MASTHI POLICE STATION
MASTHI, MALUR TALUK
REPRESENTED BY SPP

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HIGH COURT OF KARNATAKA AT

BENGALURU - 560 001.

...RESPONDENT

(BY SRI.B.VISWESWARAIAH, HCGP)

THIS CRL.P FILED U/S.439 CR.P.C PRAYING TO
ENLARGE THE PETITIONERS ON BAIL IN CR.NO.35/2016
OF MASTI P.S., KOLAR, FOR THE OFFENCE P/U/S 498A,
304B R/W 34 OF IPC AND SECTIONS 3 AND 4 OF D.P.ACT.

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

ORDER

This petition is filed by the petitioners/accused Nos.2, 3 and 4 under Section 439 of Cr.P.C. seeking their release on bail for the offences punishable under Sections 498A, 304B read with Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961, registered in respondent - police station Crime No.35/2016.

2. Brief facts of the prosecution case are that father of the deceased filed the complaint alleging that deceased is the daughter, who was married to accused No.1. Their marriage was performed on 04.06.2010 at Venugopal Swamy Temple. Complainant spent an amount of Rs.6,50,000/- for the marriage and at the time of marriage an amount of Rs.50,000/-, a gold chain weighing about 10 grams and other ornaments were given as dowry. After the marriage, petitioners and accused No.1 started giving ill-treatment to the deceased both physically and mentally, insisting her to bring additional dowry amount of Rs.2,00,000/-. Deceased informed the same to the complainant. Panchayat was convened in that regard and the petitioners and accused No.1 were advised, inspite of the same, ill-treatment to deceased was continued. It is also alleged that accused No.1 married Revathi without the knowledge of the deceased. A complaint was lodged about the same in Masthi Police Station. Accused No.1 promised to look after deceased cordially. Therefore, complainant kept quite. It is further alleged that the petitioners were ill-treating the deceased to bring dowry amount and as a result of the same scuffle took place and accused No.3 assaulted the deceased and caused fractured injury. It is further alleged that complainant received telephonic call saying that Sunitha (deceased) died by setting fire to herself. On the basis of the said complaint, case has been registered for the above said offences.

3. Heard the arguments of the learned counsel appearing for the petitioners and also the learned High Court Government Pleader appearing for the respondent-State.

4. Learned counsel for the petitioners during the course of his arguments has submitted that looking to the complaint as well as the further statement of the complainant, only bald and vague allegations are made against the petitioners that they were demanding additional dowry amount from the deceased. He has submitted that there are no specific allegations about the nature of ill-treatment meted out to the deceased. He has also submitted that so far as the allegation that accused No.1 married one Revathi without the knowledge of the deceased Sunitha, Revathi has already been granted bail by the order of this Court. He has also submitted that now the investigation is

completed and charge sheet has been filed in the matter and the offences alleged are also not exclusively punishable with death or imprisonment for life. Hence, he has submitted that by imposing reasonable conditions petitioners may be enlarged on bail.

5. Per contra, learned High Court Government Pleader, during the course of his arguments has submitted that with regard to the ill-treatment and harassment in connection with the additional dowry amount, there are averments in the complaint so also in the further statement of the complainant. He drew the attention of this Court to the statement of witnesses i.e., C.W.3-Venakteshappa, C.W.4-Lokesh and C.W.7- Naranappa, and submitted they are the independent witnesses and not connected with the family of the complainant, who have consistently stated about the ill- treatment and harassment meted out to the deceased, and because of such ill-treatment and harassment the deceased set fire to herself and died because of burn injuries sustained. Hence, he has submitted that the allegations against the petitioners are serious in nature. Therefore, he has submitted that petitioners are not entitled to be granted with bail.

6. I have perused the grounds urged in the bail petition, FIR, complaint and the charge sheet material produced in the case, so also the further statement of the complainant, which is supplied by the learned counsel for the petitioner.

7. Looking to the complaint averments, the father of the deceased made the allegations against all the accused persons that they were insisting the deceased to bring additional dowry amount of Rs.2,00,000/- and in that connection they were giving ill-treatment both physically and mentally. The complaint allegations are also to the effect that accused No.3 assaulted the deceased and he caused the injury. Looking to the statement of independent witnesses i.e., C.Ws.3, 4 and 7, which is recorded during the course of investigation i.e., inquest mahazar proceedings, they have stated about the ill-treatment and harassment by accused.

8. Considering all these materials, prosecution has placed prima-facie material against the petitioners. Even when the petitioners approached this Court by filing the petition in CrI.P.3230/2016 C/w CrI.P.3221/2016, this Court by its order dated 1.06.2016 rejected the petitions in respect of the petitioners herein, however, liberty was given to the petitioners to move the Court after filing of the charge sheet. Now looking to the charge sheet material, prima- facie materials show the ill-treatment and harassment meted out to the deceased. The incident has taken place in the house of the accused and it is within seven (7) years from the date of marriage. Therefore, in view of the prima-facie case made out by the prosecution, the petitioner Nos.2 and 3, who are accused Nos.3 and 4, are not entitled to be granted with bail. But in so far as petitioner No.1-accused No.2 being a woman, who is the mother-in-law of the deceased, aged about 48 years, which aspect has not been denied by the prosecution, and as now the investigation is completed and charge sheet has been filed and as she has undertaken to abide by any conditions to be imposed by this Court, I am of the opinion that petitioner No.1-accused No.2 can be enlarged on bail by imposing reasonable conditions.

9. Accordingly, petition is allowed-in-part. Petition in respect of petitioner Nos.2 and 3, who are accused Nos.3 and 4 is hereby rejected and petition in respect of petitioner No.1-accused No.2 is

allowed.

Petitioner No.1/accused No.2-Smt.Parvathamma, is ordered to be released on bail for the offence punishable under Sections 498A, 304B read with Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961, registered in respondent - police station Crime No.35/2016 subject to the following conditions:

- i. Petitioner No.1/accused No.2 has to execute a personal bond for Rs.1,00,000/- and has to furnish one surety for the likesum to the satisfaction of the concerned Court.
- ii. Petitioner No.1/accused No.2 shall not tamper with any of the prosecution witnesses, directly or indirectly.
- iii. Petitioner No.1/accused No.2 has to appear before the concerned Court regularly.

Sd/-

JUDGE BSR