

# **Revansiddappa S/O Bhimashankar vs The State Of Karnataka on 15 September, 2016**

**Author: R.B Budihal**

**Bench: R.B Budihal**

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IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 15TH DAY OF SEPTEMBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAI R.B.

CRIMINAL PETITION No.201052/2016

Between

Revansiddappa  
S/o Bhimashankar  
Age: 29 years  
Occ: Coolie  
R/o Swamy Vivekanand Nagar  
Kalaburagi

...Petitioner

(By Sri Mahantesh Desai and  
Smt. Anuradha Desai, Advocates)

AND:

The State of Karnataka  
Through Mahila P.S.  
Represented by Addl. S.P.P  
High Court of Karnataka  
Kalaburagi Bench.

...Respondent

(By Sri Sheshadri Jaishankar M. HCGP)

This Criminal Petition is filed under Section 439 of

the Code of Criminal Procedure, 1973 praying to release the petitioner on bail in Crime No.39/16 of Mahila P.S.

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Kalaburagi, which is registered for the offences punishable under Sections 498(A), 302, 304(B) read with 34 of IPC and 3 & 4 of D.P. Act.

This petition coming on for Orders this day, the Court made the following:

#### ORDER

This petition is filed by the petitioner-accused No.1 under Section 439 of Cr.P.C., seeking his release on bail of the alleged offences punishable under Sections 498A, 302, 304B read with Section 34 of IPC and also under Sections 3 and 4 of Dowry Prohibition Act, 1961, registered in respondent-Police Station Crime No.39/2016.

2. Case of the prosecution in brief that one Basavanappa Kadadi, the father of the deceased Amibka, lodged the complaint alleging that marriage of Amibka with accused No.1 was performed on 12.05.2015 and at the time of marriage a sum of Rs.51,000/- and 3 tolas of gold was provided. After one year of the marriage, accused persons demanded more dowry of Rs.5,00,000/- from the complainant. Thereafter, accused Nos.1 and 2 were giving torture and harassment to the deceased. On 26.05.2016 at about 2.00 p.m. complainant, relatives called on phone and informed to come to Gulbarga immediately. Somebody had called on phone to the complainant and informed that Ambika was died due to burn injures. Then, complainant went to the house of accused No.1 and seen that Ambika died after setting ablaze. On the basis of the said complaint, case came to be registered against the petitioner and accused No.2 for the above mentioned offences.

3. Heard the arguments of the learned counsel appearing for the petitioner-accused No.1 and also the learned High Court Government Pleader appearing for respondent-State.

4. Learned counsel for the petitioner-accused No.1 has submitted that looking to the prosecution material and statement of witnesses, absolutely there is no material to make out prima-facie case against the petitioner that he committed the alleged offence so as to attract the offence under Section 302 of IPC. Though it is the case of the prosecution as per the complaint version that the said ill-treatment was one year earlier to the incident and it is also their case that whenever deceased Ambika used to meet her father, she was telling about the ill-treatment and the harassment. Hence, instead of all these things, no compliant has been lodged earlier with regard to the said ill-treatment. She has also submitted that even in respect of the present incident also there is delay in lodging the complaint, which is not properly explained. She has also submitted that even the statement of witnesses shows that when the alleged incident took place, petitioner and accused No.2 were not in the house and they rushed to the hospital immediately after the incident. She has also submitted that accused No.2 is already granted bail. She has further submitted that now the

investigation is completed and charge sheet has been filed, hence, by imposing reasonable conditions, petitioner may be enlarged on bail.

5. Per contra, learned HCGP has submitted that looking to the statement of witnesses i.e., the complainant, who is the father of the deceased, and the owner of the house, wherein the deceased and petitioner No.1 were residing, shows that deceased used to tell before them about the ill-treatment and harassment with regard to dowry amount. He has also submitted that incident has taken place in the house of the petitioner and there are witnesses to say about the ill-treatment and harassment. Therefore, it is his contention that there is prima-facie material placed by the prosecution and hence, petitioner is 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 containing the statement of witnesses.

7. Looking to the complaint averments, the father of the deceased has clearly stated that at the time of marriage they have given a sum of Rs.51,000/- and 3 tolas of gold as dowry. For a period of one year, his daughter was treated properly and thereafter, petitioner and accused No.2 started giving ill-treatment, demanding additional dowry amount and insisting her to bring dowry amount from her parental place. In this connection, I have perused the statement of one Sunitha, who is said to be the owner of the house in which the accused and deceased were residing, wherein she has stated that deceased Ambika used to tell before her about the ill-treatment and harassment meted out to her. So these oral statements said to have been made by Ambika before her father as well as the owner of the house and others witnesses prima-facie amounts to oral dying declaration. Considering the incident taken place in the house of petitioner-accused No.1, petitioner is the best person to say about how the incident has taken place. But, at this stage, considering entire materials, they clearly makes out prima-facie case against the petitioner and the offence alleged under Section 304B of IPC is also a serious offence. Under these circumstances, I am of the opinion that it is not a fit case to exercise the discretion in favour of the present petitioner and to release him on bail. Hence, petition is hereby rejected.

Sd/-

JUDGE BSR