

Moses N @ Moses vs Sub Inspector Of Police on 30 July, 2024

Author: S Vishwajith Shetty

Bench: S Vishwajith Shetty

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NC: 2024:KHC:29915
CRL.P No. 5605 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY
CRIMINAL PETITION NO. 5605 OF 2024

BETWEEN:

1. MOSES N @ MOSES,
PRATHIBHAN, S/O LATE NAVEEN,
AGED 32 YEARS,
2. MANI BHARATHI N,
D/O LATE NAVEEN,
AGED 30 YEARS,
3. SMT. ANANDI,
W/O LATE NAVEEN,
AGED 58 YEARS,

Digitally
signed by
NANDINI
MS

Location:
High Court
of Karnataka

ALL ARE R/AT NO. 264,
NEAR GRACE AND TRUTH CHURCH,
6TH WARD, DOMMASANDRA,
BENGALURU - 562 125.

...PETITIONERS

(BY SRI. T.C. SATHISHKUMAR, ADVOCATE)

AND:

SUB INSPECTOR OF POLICE,
BYAPPANAHALLI POLICE STATION,
OPP: GOPALAN SIGNATURE MAHAL,
OLD MADRAS ROAD, NAGAVARAPALYA,

BENNIGANAHALLI, BENGALURU - 560 093,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENT

(BY SMT. WAHEEDA M.M, HCGP)

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THIS CRL.P IS FILED U/S.438 OF CR.P.C PRAYING TO
GRANT ANTICIPATORY BAIL TO PETITIONERS 1 TO 3 IN
CR.NO.28/2024 (PCR NO. 4677/2023) BY THE
RESPONDENT/BYAPPANAHALLI POLICE FOR THE OFFENCES
P/U/S 354C AND 354D OF IPC AND SEC. 66, 66(c), 66(E) AND
67(A) OF I.T. ACT, 2000 ON ENLARGING THEM IN THE EVENT
OF THEIR ARREST BY THE POLICE WITH A DIRECTION TO THE
X ADDL. CMM COURT (MAYOHALL UNIT) BANGALORE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused Nos.1 to 3 in Crime No.28/2024 registered by Baiyappanahalli Police Station, Bengaluru for the offences punishable under Section 66, 66(C), 66(E), 67(A) of Information Technology Act, 2000 and Sections 354-C and 354-D of IPC are before this Court under Section 438 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. F.I.R. in Crime No.28/2024 was registered by Baiyappanahalli Police Station, Bengaluru against the petitioners herein on the basis of the first information dated 25.01.2024, submitted by Smt.S.Nalini wife of accused No.1. Apprehending arrest in the said case, petitioners herein had filed Crl.Misc.No.2069/2024 and Crl.Misc.No.3062/2024 before NC: 2024:KHC:29915 the jurisdictional Court, which were rejected. Therefore, petitioners are before this Court.

4. Learned counsel for the petitioners submits that prior to filing of private complaint in the present case, first informant has filed criminal case against the petitioners herein in Crime No.35/2023 before the Varthur Police Station, Bengaluru for offences punishable under Sections 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961. After the petitioners were granted anticipatory bail in the said case, the present criminal case is initiated by making false allegations only to harass and coerce the petitioners. Accordingly, he prays to allow the petition.

5. Per contra, the learned HCGP has opposed the bail petition. She submits that serious allegations are made in the private complaint touching the privacy of the de-facto complainant. The custodial interrogation of the petitioners is therefore necessary. Accordingly, she prays to dismiss the petition.

6. Material on record would go to show that marriage of accused No.1 with de-facto complainant was performed on NC: 2024:KHC:29915 21.08.2020 and the said marriage was a love marriage. Alleging that the accused persons were harassing and torturing her in her matrimonial house, the de-facto complainant had approached the Varthur Police, Bengaluru and on the basis of first information received from her, F.I.R. in Crime No.35/2023 was registered against the petitioners for offences punishable under Sections 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961. In the said case, the petitioners were granted anticipatory bail in Crl.Misc.No.364/2023 disposed of on 06.03.2023. Thereafter, the de-facto complainant had filed private complaint before the jurisdictional Court of Magistrate, which was referred to the Police for investigation and F.I.R. in Crime No.28/2024 was registered by Baiyappanahalli Police Station against the petitioners herein for the aforesaid offences. The alleged offences are neither punishable by death or imprisonment for life. The petitioners are husband, sister-in-law and mother-in-law of the de-facto complainant, they have undertaken to co-operate with the Police for investigation. Under these circumstances, I am of the opinion that prayer made by the petitioners for grant of anticipatory bail is required to be answered in affirmative. Accordingly, the following:

NC: 2024:KHC:29915 ORDER The petition is allowed.

The respondent - Police or any other police in the State of Karnataka are directed to release the petitioners in the event of their arrest in Crime No.28/2024 registered by Baiyappanahalli Police Station, Bengaluru for the offences punishable under Section 66, 66(C), 66(E), 67(A) of Information Technology Act, 2000 and Sections 354-C and 354-D of IPC subject to the following conditions:

1. The petitioners shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) each with two sureties for the likesum to the satisfaction of the investigating officer.
2. The petitioners shall regularly appear before the Trial Court without fail unless exempted by the Trial Court for valid reasons.
3. The petitioners shall not tamper with the prosecution witness and they shall co-operate with the Police for investigation and appear before them whenever called upon.

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4. The petitioners shall not involve in similar offences in future.

Sd/-

(S VISHWAJITH SHETTY) JUDGE GPG CT: BHK