

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

CRIMINAL PETITION No.544 OF 2021

BETWEEN:

PRAJITH R.,

... PETITIONER

(BY SRI. PAVANA CHANDRA SHETTY H., ADVOCATE)

AND:

1 . SMT. XXXX.,
W/O PRAJITH R.

2 . STATION HOUSE OFFICER,
BANNERGHATTA POLICE STATION,
ANEKAL CIRCLE,

BENGALURU RURAL DISTRICT - 562 106

... RESPONDENTS

(BY SRI. MANJUNATHA G., ADVOCATE FOR R-1;
SMT. K.P.YASHODHA, HCGP FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIR IN CR.NO.158/2020 ON PENDING FILE OF THE COURT OF ADDITIONAL CIVIL JUDGE (JR.DN) AND JMFC, ANEKAL, BENGALURU RURAL DISTRICT AGAINST THE PETITIONER HEREIN FOR THE OFFENCE P/U/S 507, 498A, 504, 417 OF IPC PRODUCED HERewith AS DOCUMENT NO.1 AND ALLOW THIS CRL.P WITH COSTS THROUGHOUT.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.06.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner is before this Court calling in question registration of a crime in Crime No.158 of 2020 for offences punishable under Sections 498A, 504, 507 and 417 of the IPC.

2. Heard Sri H. Pavana Chandra Shetty, learned counsel appearing for the petitioner, Sri G. Manjunatha, learned counsel appearing for respondent No.1 and Smt. K.P. Yashodha, learned High Court Government Pleader appearing for respondent No.2.

3. Brief facts that lead the petitioner to this Court in the subject petition, as borne out from the pleadings, are as follows:-

The 1st respondent is the complainant. The petitioner is the sole accused. The complainant seeks to register a complaint on 10-11-2020 making certain allegations against the petitioner. The complainant alleges that she is married to one Jagadish and at the stage when the complainant was carrying and was at the 8th month stage, her husband had dropped the complainant in her parents' house at Arakalgud of Hassan District. After two years, the husband comes back to her matrimonial house and gets the complainant and her daughter back to Bangalore. In the complaint it is further alleged that the husband stayed along with her for about six months and then did not return to the house for some time. Therefore, the complainant had to obtain employment at Mariko Marketing Company.

4. In the place of employment, the petitioner comes in contact with her and it is alleged that the petitioner assured that he would marry the complainant. It is further alleged in the complaint

that the complainant informed the petitioner that she was five years older to him. However, it is said that the complainant was lured into a relationship with the petitioner on the assurance of marriage. When the petitioner did not keep up his assurance of marriage, the complainant registered a complaint before the jurisdictional Police on 10.11.2020 alleging offences punishable under Sections 498A, 504, 507 and 417 of the IPC. The registration of crime is what leads the petitioner to this Court in the subject petition.

5. The learned counsel appearing for the petitioner would contend that the complainant at the time when she was in dire need of help, the petitioner had helped her no doubt, but has never assured her that he would marry her, as the complainant was already married and did have a child. Unless she would come out of the marriage, even the allegation that the petitioner had promised to marry her cannot be laid against the petitioner. He would contend that the facts in the case at hand do not have any of the ingredients of offences so alleged against the petitioner. At best, the petitioner can be called a paramour and nothing beyond

that. He would submit that the proceedings if permitted to continue would become an abuse of process of law and has to be quashed.

6. The learned counsel appearing for the 1st respondent/ complainant would seek to refute the submissions to contend that the complainant is now neither here nor there. The petitioner promised her that he would marry her and has now breached the said marriage assurance. Therefore, it is a matter of trial for the petitioner to come out clean. Whether the offences alleged are the ones that would have ingredients are all a matter of investigation. While filing the charge sheet, the Police may even file a 'B' report or drop the charges that are not appropriately laid against the petitioner.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are a matter of record. The entire issue now springs from the complaint. Therefore, I deem it

appropriate to notice the compliant. The complaint reads as follows:

“ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನಾನು ನಮ್ಮ ಸ್ವಂತ ಊರು ಅರಕಲಗೂಡಿನಲ್ಲಿ 9ನೇ ತರಗತಿ ವ್ಯಾಸಂಗ ಮಾಡುವಾಗ ನನ್ನ ದೊಡ್ಡಮ್ಮನ ಮಗಳು ಇಂದ್ರಾಣಿ ನನ್ನನ್ನು ಜಗದೀಶನೊಂದಿಗೆ ಮಧುವೆಮಾಡಿಸಿದ್ದು ನಾನು 8 ತಿಂಗಳ ಗರ್ಭಿಣಿಯಾಗಿದ್ದಾಗ ನನ್ನನ್ನು ಆತನ ಊರಾದ ಅರಕಲಗೂಡಿನ ಪಕ್ಕ ಕಂಚೇನಹಳ್ಳಿ ಅವರ ತಂದೆ ತಾಯಿ ಜೊತೆ ಬಿಟ್ಟು ಹೋದವನು ಮತ್ತೆ 2 ವರ್ಷಗಳ ನಂತರ ಬಂದು ನನ್ನನ್ನು ಮತ್ತು ನನ್ನ 2 ವರ್ಷಗಳ ನಂತರ ಬಂದು ನನ್ನನ್ನು ಮತ್ತು ನನ್ನ 2 ವರ್ಷದ ಮಗಳು ಸಂಗೀತಾಳನ್ನು ಆಡುಗೋಡಿಯಲ್ಲಿ ಬಾಡಿಗೆ ಮನೆ ಮಾಡಿ ಇರಿಸಿದ್ದ 6 ತಿಂಗಳು ಜೊತೆಗಿದ್ದು ನಂತರ ಎಲ್ಲಿಯೋ ಹೋದವನು ವಾವಸ್ ಬರಲಿಲ್ಲ ನನ್ನ ಗಂಡ ನನ್ನನ್ನು ಬಿಟ್ಟು ಹೋದವನು ತುಂಬಾ ವರ್ಷಗಳಾದರೂ ಬರಲಿಲ್ಲ ನಾವು ಸಹ ಎಲ್ಲಾ ಕಡೆ ಹುಡುಕಿದರೂ ಪತ್ತೆಯಾಗಿಲ್ಲ ನಂತರ ನಾನು ನನ್ನ ಮಗಳು ನನ್ನ ತಾಯಿ ಸರೋಜಮ್ಮ ವಾಸವಾಗಿದ್ದೆನು. ನಂತರ ನಾವು ಮಡಿವಾಕ್ಕೆ ಮನೆ ಬದಲಾಯಿಸಿದ್ದು ನಾನು ಮ್ಯಾರಿಕೋ ಕಂಪನಿಯಲ್ಲಿ ಮಾರ್ಕೆಟಿಂಗ್ ಕೆಲಸಕ್ಕೆ ಹೋಗುತ್ತಿದ್ದಾಗ ನನಗೆ ಪ್ರಜಿತ್ ಎಂಬುವನ ಪರಿಚಯವಾಗಿದ್ದು ನನ್ನನ್ನು ಮಧುವೆಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆಂದು ಕೇಳಿದ ಆಗ ನಾನು ನನಗೆ ಮಧುವೆಯಾಗಿದೆ ಒಂದು ಮಗು ಇರುತ್ತದೆ. ನನ್ನನ್ನು ಮಧುವೆಮಾಡಿಕೊಳ್ಳಲು ಆಗುತ್ತಾ ಎಂದು ಹೇಳಿದ ನೀನು ನನಗಿಂತ 5 ವರ್ಷ ಚಿಕ್ಕವನು ಮಧುವೆಮಾಡಿಕೊಳ್ಳುವುದು ಬೇಡ ಎಂದು ಹೇಳಿದರೂ ಆತನ ಕೇಳದೇ ಇದ್ದುದರಿಂದ ನಮ್ಮ ಮನೆಯವರನ್ನು ಹಾಗೂ ನಿಮ್ಮ ಮನೆಯವರನ್ನು ಕೇಳಿ ಮಧುವೆಮಾಡಿಕೊ ಎಂದು ಹೇಳಿದ. ಆಗ ನಮ್ಮ ಮನೆಯವರು ಮಧುವೆಗೆ ಒಪ್ಪಿಕೊಂಡರು ಅವರ ಮನೆಯವರು ಒಪ್ಪಿಕೊಳ್ಳಲಿಲ್ಲವಾದರೂ ಹಲ ಮಾಡಿ ನನ್ನನ್ನು ನಂಬಿಸಿ ಈಗ ದಿನಾಂಕ:15-05-2015 ರಲ್ಲಿ ಹಾಸನ ವಿವಾಹನ ನೋಂದಣಾ ಕಛೇರಿಯಲ್ಲಿ ನನ್ನನ್ನು ಮಧುವೆಮಾಡಿಕೊಂಡು ನಾವು ಹುಲ್ಲಹಳ್ಳಿಯಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ನನ್ನ ಜೊತೆ 2 ವರ್ಷ ಸಂಸಾರ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ. ನಂತರ ಈಗ 2 ವರ್ಷಗಳ ಹಿಂದೆ ನನ್ನ ಗಂಡ ಪ್ರಜಿತ್ ಮಲೇಷಿಯಾದಲ್ಲಿರುವ ಐ & ಪಿ ಕಂಪನಿಯಲ್ಲಿ ಕೆಲಸಕ್ಕೆ ಹೋದವನು 2 ವರ್ಷ ನನಗೆ ಪ್ರತಿ ತಿಂಗಳು ಸಂಸಾರಕ್ಕೆ ಹಣವನ್ನು ಕಳುಹಿಸುತ್ತಿದ್ದ ನಂತರ 2020ನೇ ಜನವರಿಯಿಂದ ನನಗೆ ಹಣವನ್ನು ಕಳಿಸದೇ ಇದ್ದುದರಿಂದ ನಾನು ಆತನ ಮೊಬೈಲ್ ಕರೆಮಾಡಿ ಹಣ ಕಳುಹಿಸಿ ಇಲ್ಲ ಎಂದರೆ ವಾವಸ್ ಬಾ ಎಂದು ಕರೆದನು ಆಗ ಪ್ರಜಿತ್ ನಾನು ವಾವಸ್ ಬರಲ್ಲಾ ಇಲ್ಲಿ ನಾನು ಹುಡುಗಿಯೊಂದಿಗೆ ಇದ್ದೇನೆ. ನೀನು ನನ್ನನ್ನು ಮರೆತುಬಿಡು ನಾನು ಸತ್ತುಹೋಗಿದ್ದೇನೆಂದು ತಿಳಿದಿಕೋ ಎಂದು ಹೇಳಿದನು. ನಾನು ಎಷ್ಟು ಬಾರಿ ಪೋನ್ ಮಾಡಿದರೂ ನನ್ನ ನಂಬರ್ ಬ್ಲಾಕ್ ಮಾಡುತ್ತಾನೆ. ನಂತರ ನಾನು ಹೊಸ ಪೋನ್‌ನಿಂದ ಕಾಲ್ ಮಾಡಿದರೆ ಆತ ನನಗೆ ನೀನು ಬೇಡ ನಿನ್ನ ನೋಡೋಕೆ ಅಸಹ್ಯವಾಗುತ್ತದೆ, ನೀನು ಭಾರತಕ್ಕೆ ಬಾ, ಹಣ ಕಳುಹಿಸು ಎಂದು ಪದೇ ಪದೇ ಕರೆಮಾಡಿದರೆ ನಿನಗೆ ಮತ್ತು ನಿಮ್ಮ ಮನೆಯವರಿಗೆ ಒಂದು ಗತಿ ಕಾಣಿಸುತ್ತೇನೆಂದು ಬೆದರಿಕೆ ಹಾಕಿ ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡಿರುತ್ತಾನೆ ಹಾಗೂ ಹಲವಾರು ಬಾರಿ ಬೇರೆ ಹುಡುಗಿಯೊಂದಿಗೆ ಇರುವ ಪೋಟೋಗಳನ್ನು ಹಾಕುವುದು, ನನಗೆ ಪೋನ್ ಮಾಡಿ ಕೆಟ್ಟ ಮಾತುಗಳಿಂದ ಬೈಯುವುದು ಮಾಡುತ್ತಿರುತ್ತಾನೆ. ಆದ್ದರಿಂದ ನನ್ನ ಗಂಡ ಪ್ರಜಿತ್ ಮೇಲೆ ಕಾನೂನು ರೀತಿ ಕ್ರಮ ಜರುತಿಸಬೇಕೆಂದು ಕೋರಿಕೊಳ್ಳುತ್ತೇನೆ. ಪ್ರಜಿತ್ ರವರ ಪೋನ್ ನಂ- *601151409374 ಆಗಿರುತ್ತದೆ.”

The complaint narrates that the petitioner and the complainant had come in contact with each other and the complainant claims that the petitioner had assured that he would marry her notwithstanding the fact that she was 5 years older and a married woman having a child. It further narrates that two years ago i.e., two years prior to the complaint, the petitioner whom the complainant claims to be her husband, was in Malaysia and for two years every month for the purpose of living he used to send money. Therefore, he is of the traits of being a husband. Later he stopped answering calls of the complainant.

9. There is no document produced to demonstrate that the petitioner at any time was her husband nor there is evidentiary narration in the complaint. In fact, the petitioner has produced certain documents which would clearly demonstrate that one Jagadish was the husband of the complainant. This would become amply clear by the objections filed by the 1st respondent. Paragraph-7 of the objections reads as follows:

"..... .."

7. The averments made in para 10 of the petitioner that respondent is a married lady and a girl of age 20 years from 1st wedlock with Mr.Jagadish is true. The rest of the allegations in same para 10 are hereby denied as false and the petitioner is put to strict proof of the same. However, only up to January 2020, the petitioner sent some amount to the respondent."

In reply to the averments that the 1st respondent was already a married lady and having daughter of 20 years of age, it is answered that it is true and the wed lock had happened with Mr.Jagadish. It further narrates that upto January 2020 the petitioner had sent some amount to the complainant. The 1st respondent/complainant has also averred that the petitioner had married another woman in Malaysia and, therefore, the complainant had to file a petition in M.C. No. 582 of 2021 seeking restitution of conjugal rights, and it is claimed that it is the duty of the petitioner to maintain the complainant and her daughter.

10. In the teeth of the aforesaid facts whether the offences alleged can be permitted to be investigated into. The offence alleged is one punishable under Section 498A of the IPC. There is not even a document to demonstrate that the petitioner and the 1st

respondent are married. It is in fact admitted by the complainant that she is already married to one Sri. Jagadish and has a child born from the said wedlock. If she is already married to Sri. Jagadish it is highly understandable as to how the present petitioner can be claimed to be her husband. The objections of the complainant does not narrate that she has secured a decree of divorce from the earlier husband Sri. Jagadish. When the said marriage is still subsisting, it can hardly be said that the petitioner is her husband and the complainant and her daughter need to be maintained. Merely because the petitioner has sent some money some time for the need of the complainant, it cannot be said that the petitioner has to maintain them without a legal bond between the complainant and the petitioner. Therefore, the offence under Section 498A of the IPC which deals with dowry harassment and cruelty is loosely laid against the petitioner.

11. The other offence punishable is under Section 417 of the IPC which deals with cheating. Cheating is alleged on the ground that the petitioner has breached the promise of marriage. The complainant admits that she is already married to Sri. Jagadish and

has a child from the wedlock. If she is already married, there can be no question of cheating on the breach of promise of marriage. Therefore, the said offence also cannot be laid against the petitioner.

12. Section 504 of the IPC deals with intentional insult with an intent to provoke breach of peace. I fail to understand, in the facts of the case, how could such an offence even be thought of as the provision relates to provocation which is going to cause or break public peace.

13. The other offence is under Section 507 of the IPC. Section 507 deals with criminal intimidation by an anonymous communication. There is no anonymous communication in the case at hand made by the petitioner. The complainant appears to be twining a story to get hold of the petitioner which, in the considered view of this court, if permitted would become an abuse of the process of law and result in miscarriage of justice.

14. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) FIR registered by the Bannerghatta Police Station in Crime No.158 of 2020 and pending before the Additional Civil Judge (Junior Division) and JMFC, Anekal, Bangalore Rural District stands quashed.
- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioner under Section 482 of Cr.P.C. and the same shall not bind or influence proceedings pending between the parties.

Consequently, I.A.No.1 of 2022 stands disposed.

**Sd/-
JUDGE**

Bkp
CT:SS