



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 24TH DAY OF OCTOBER, 2024
BEFORE
THE HON'BLE MS. JUSTICE J.M.KHAZI
CRIMINAL PETITION NO.103233 OF 2023
(482(Cr.PC)/528(BNSS))

BETWEEN:

1. SMT. MEHRUNNISA
W/O. GOUSSAB CHANDSHA,
AGE. 74 YEARS, OCC. HOUSEWIFE,
2. SMT. REHANA W/O. IRFAN BEERWALE,
AGE. 50 YEARS, OCC. HOUSEWIFE,
3. SHRI IRFAN MOHMAD SULEMAN BEERWALE,
AGE. 57 YEARS, OCC. BUSINESS,

ALL ARE R/O. C/O REHANA IRFAN BEERWALE,
HIGH STREET CAMP, BELAGAVI, P.C.590001.
4. SMT. FERNAZ W/O. RAFEEQUE BETGERI,
AGE. 54 YEARS, OCC. HOUSEWIFE,
R/O. C/O. M.M. BETGERI,
CTS NO.4815/58, OPP. HAHIBYA MASJID,
SUBHAS NAGAR, BELAGAVI, P.C.590001.

...PETITIONERS

(BY SRI AHAMED ALI RAHIMANSHAH, ADV. PETITIONERS)

AND:

1. MRS. NASIRA W/O. ASIF CHANDSHA,
AGE. 40 YEARS, OCC. NIL,
R/O. C/O MOHMAD AKBAR M. SHAIKH, RAGHUNATH
PETH, ANGOL, BELAGAVI, P.C.590001.
2. THE STATE OF KARNATAKA,
BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, BENCH DHARWAD,
THROUGH MAHILA POLICE STATION, BELAGAVI.

...RESPONDENTS

(BY SRI NEELENDRA D.GUNDE, ADV. FOR R1;
SRI PRAVEEN Y.DEVAREDDIYAVARA, HCGP FOR R2)





THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONERS NO.1 TO 4 (ACCUSED NO.2 TO 5) IN C.C. NO.476/2012 (I.E. WPS CRIME NO.5/2012 P.C. NO.39/2011) PENDING ON THE FILE OF JMFC-11, BELAGAVI, IN THE INTEREST OF JUSTICE, EQUITY, AND CONSCIENCE, THE ALLEGED OFFENCES UNDER SECTIONS 498A, 506, 406, 323, 504 R/W 34 OF IPC AND UNDER SECTIONS 3 AND 4 OF D.V. ACT.

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

CORAM: THE HON'BLE MS. JUSTICE J.M.KHAZI

ORAL ORDER

(PER: THE HON'BLE MS. JUSTICE J.M.KHAZI)

Petitioners who are arraigned as accused Nos.2 to 5 are seeking quashing of the criminal proceedings initiated against them in C.C.No.476/2012 pending on the file of JMFC-II, Belagavi for the offences punishable under sections 498A, 506, 406, 323, 504 r/w Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. In support of the petition, petitioners have contended that the complaint is illegal, bad and against the principles of law. The cause of action for the alleged offences took place on 18.11.2007, but the complaint came to be launched on 18.11.2011 after lapse of four years. Therefore, the complaint is barred by limitation.



The trial court has illegally issued summons to frame charge and record evidence. The allegations made in the charge sheet do not disclose the ingredients of 498A, 403, 406, r/w Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act. Petitioners have nothing to do with the marital dispute between the complainant and accused No.1. Complainant is trying to take advantage of the situation and pray to quash the criminal proceedings against the petitioners.

3. Learned counsel appearing for respondent No.1/complainant and the learned HCGP representing respondent No.2/State submit that even though the offences under Sections 498A and 403 of IPC are punishable upto 3 years imprisonment, having regard to the fact that the offence under Section 498A is a continuing offence, the trial court is justified in taking cognizance and proceeding with the matter. There are specific allegations against the petitioners and therefore,



they are liable to answer and pray for rejecting the petition.

4. Heard arguments and perused the record.

5. Complainant is the wife of accused No.1. Petitioners who are arraigned as accused Nos.2 to 5 are the mother and sisters of accused No.1. The marriage of the complainant and accused No.1 took place on 10.11.2005. It is stated that the marriage was performed by spending ₹1,00,000/- and four tolas of gold was given to the complainant. After the marriage, complainant resided with accused No.1 in the house of brother of accused No.1. She stayed for a period of two months in the said house, wherein accused No.1 used to assault her to get additional gold and money. Accused Nos.1 to 5 misrepresented to the complainant that the house in question belongs to accused No.1 and his brother. However, after three months, the wife of his brother assaulted the complainant as well as accused No.1.

6. After three months, accused No.1 went to Dubai without informing the complainant. After six months, he



returned to India and took the complainant to the house of his sister at Subhashnagar to take care of her as she had given birth to child. At this stage, petitioner No.1 slowly started demanding amount from the parents of the complainant. Though the father of complainant paid ₹50,000/- in two installments of ₹25,000/- each, again accused No.1 demanded ₹1,00,000/-. He even sold the gold ornaments of the complainant stating that he would start business.

7. Complainant gave birth to a son on 12.02.2007 and went to her parents house for delivery. After about 2½ months, accused No.1 set up rented premises. After five months accused No.1 took her to his sister accused No.3 Rihanna's house to serve her, as she had undergone operation. During this period also accused Nos.1 to 3 assaulted and abused her in vulgar language. Again, they were shifted to rented premises. After one month, accused No.1 took a letter from her forcibly and threw her out of his house on 18.11.2007. Accused No.2 also quarreled



with her. Though complainant tried to join the company of accused No.1, she was not allowed. Since then complainant is staying in her parents' house. Complainant also came to know that accused No.1 has contracted second marriage. Ultimately, the complainant has chosen to file the complaint.

8. The trial court has taken cognizance. It appears accused No.1 has absconded. After following the procedures contemplated under Sections 82 and 83 of the Cr.P,C., the trial court has ordered for splitting up the charge against accused No.1 and separate case is registered in C.C.No.753/2013. When the case was at the stage of hearing before charge, accused Nos.2 to 5 have filed application under Section 468 Cr.P.C. to acquit them on the ground that the charge sheet is barred by limitation. Vide order dated 19.05.2023, the trial court has rejected the said application. Aggrieved by the same, accused Nos.2 to 5 have filed this petition to quash the proceedings on the ground that the period of limitation has



expired and therefore, the trial court has erred in taking cognizance. There are no materials to proceed against accused Nos.2 to 5 and on this ground also, the proceedings are liable to be quashed.

9. Section 468 Cr.P.C. deals with bar for taking cognizance after the period of limitation. According to this, in case of offences punishable only with fine, the period of limitation is six months. Where the offence is punishable with imprisonment not exceeding one year, then the period of limitation is one year. In case of offences punishable with imprisonment not exceeding three years, the period of limitation is three years. In other words, those offences which are punishable for the period more than three years, no limitation is prescribed. Out of the offences alleged, Section 498A and 403 of IPC carry the maximum punishment upto 3 years. According to the petitioners, the cause of action for filing the complaint is dated 18.11.2007 and therefore, complaint filed on 15.11.2011 is barred by limitation. However, Section 472



Cr.P.C. provides that in case of continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues. So far as the offence punishable under section 498A of IPC is concerned, it is a continuing offence. After throwing out the complainant from the matrimonial home, accused No.1 has contracted second marriage. It appears the second wife has also filed a private complaint against the accused persons including accused No.1. Since the nature of the offence under section 498A is a continuing offence, this court is of the considered opinion that there is no impediment for the trial court to take cognizance. In the result, the petition fails and accordingly the following;

ORDER

Petition filed by Petitioners/accused Nos.2 to 5 under Section 482 Cr.P.C. is hereby rejected.

**Sd/-
(J.M.KHAZI)
JUDGE**

MBS
Ct;UMD
List No.: 1 Sl No.: 28