

Smt Lalitha Sancheti Vs. State Of Karnataka

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Court : Karnataka

Decided On : Jan-08-2021

Judge : K.SOMASHEKAR

Appeal No. : CRL.P 4890/2018

Appellant : Smt Lalitha Sancheti

Respondent : State Of Karnataka

Judgement :

R CRL.P.4890/2018 1 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE8H DAY OF JANUARY2021BEFORE THE HONBLE MR. JUSTICE K.SOMASHEKAR CRL.P.No.4890/2018 BETWEEN:

1. Smt Lalitha Sancheti, W/o Sri Chhaganraj Sancheti, Aged 57 years, Occupation: Household work, Residing at No.46, Flat No.402, Perfecta Classica Apts. Sajjan Rao Road, V.V.Puram, Bengaluru-560 004.
2. Chhaganraj Sancheti, S/o Vastimal Sancheti, Aged 59 years, Occupation: Business, Residing at No.46, Flat No.402, Perfecta Classica Apts. Sajjan Rao Road, V.V.Puram, Bengaluru-560 004.
3. Gourav Sancheti, S/o Chhaganraj Sancheti, Aged 34 years, Occupation: Private Service, Residing at No.46, Flat No.402, Perfecta Classica Apts. Sajjan Rao Road, V.V.Puram, Bengaluru-560 004.
4. Mahaveer Dungarwal, S/o J.Sampathraj, Aged 61 years, Occupation: Business, CRL.P.4890/2018 2 Residing at No.10, Punam Plaza, Chickpet, Bengaluru-560 053.
5. Ramesh Dungarwal, S/o J.Sampathraj, Aged 53 years, Occupation: Business, Residing at No.1, Park Road, Tasker Town, Shivajinagar, Bengaluru-560 051. ..PETITIONERS (By Sri Prasanna Kumar .P, Adv.) AND:

1. State of Karnataka, By Visveshwarapuram Police Station, Visveshwarapuram Sub-Division, Bengaluru City Represented by its State Public Prosecutor, High Court Bldg., Dr.B.R.Ambedkar Veedhi, Bengaluru-560 001.

2. Smt.Unnati Vinay Sancheti, W/o Vinay Sancheti, Aged 34 years, Occupation: Housewife, Residing at No.14/2, M.M.Vidyalaya Road, V.V.Puram, Bangalore-560 004. Earlier R/at No.46, Flat No.402, Perfecta Apartment Sajjan Rao Road, V.V.Puram, Bengaluru City-560 002. ..RESPONDENTS (By Smt.Rashmi Jadhav, HCGP for R1; Sri H.C.Nataraj, Adv. for R2) CRL.P.4890/2018 3 This criminal petition is filed under Section 482 Cr.P.C praying to quash the order dated 07.09.2017 passed by the learned XXIV ACMM, Bangalore City in C.C.No.25556/2017, thereby taking cognizance against the petitioners for the offence P/U/S498 of IPC and sections 3 and 4 of D.P. Act, and ordering to register criminal case and issue summons. This petition coming on for admission, this day, the Court made the following:

ORDER

1 This petition is filed by the petitioners who are arrayed as accused nos.1 to 5 in C.C.No.25556/2017 arising

out of Crime No.10/2017 registered by V.V.Puram Police for the offences punishable under Section 498A of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, seeking quashing of the proceedings in C.C.No.25556/2017 pending before the XXIV Addl. Chief Metropolitan Magistrate, Bengaluru.

2. Brief facts of the case: Respondent no.2 Smt. Unnati Vinay Sancheti is none other than the daughter-in-law of petitioners 1 & 2 CRL.P.4890/2018 4 and sister-in-law of petitioner no.3, and petitioners 4 & 5 are the brothers of petitioner no.1. Respondent no.2 along with her husband had filed a suit in O.S.No.7832/2016 against her in-laws and so also other relatives seeking injunction in respect of the house property owned and occupied by petitioners 2 & 3. In the said suit, the interim applications filed in IA Nos.1 & 2 by respondent no.2 was rejected on 07.09.2017 holding that respondent no.2 was not in possession of the apartment building and it was in fact petitioner no.3 along with their family which was residing in the said premises. Thereafter, respondent no.2 has lodged a complaint before the respondent-Police against the petitioners herein for the alleged offences under Section 498A of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, based on which Crime No.10/2017 came to be registered.

3. It is the case of the prosecution that the marriage of respondent no.2 was solemnized with the son of petitioners 1 & 2 and that during March 2012 at the time of marriage talks, accused nos.1 to 5 demanded gold CRL.P.4890/2018 5 ornaments weighing 1/2 kg, silver articles weighing 20 kg be given to the husband of respondent no.2 and marriage was solemnized at Palace Grounds. It is the further case of the prosecution that thereafter, the father of respondent no.2 has given 300 gms gold ornaments and silver ornaments weighing 10 kgs to the husband of respondent no.2 and a sum of Rs.5 lakhs was also given towards marriage expenses. It is the further case of the prosecution that the husband of respondent no.2 purchased an apartment in the name of accused no.3 and that accused nos.1 to 5 demanded a sum of Rs.50 lakhs towards dowry and as respondent no.2 was not able to give the said amount, respondent no.2 and her husband were thrown out of the house by accused nos.1 to 5. With these allegations, the respondent-Police filed charge sheet against the petitioners.

4. Sri P.Prasanna Kumar, learned Counsel for the petitioners submits that the alleged incident of demanding dowry and that respondent no.2 and her husband being thrown from the residential house is said to have taken CRL.P.4890/2018 6 place on 11.09.2016, and whereas the complaint has been filed by respondent no.2 on 04.11.2016, nearly two months after the alleged date of incident. That apart, the First Information Report is filed by the respondent-Police on 17.01.2017 i.e., nearly two months after the filing of the complaint. He submits that even if the entire case of the prosecution is accepted to be true, the same do not disclose commission of offence as alleged by the prosecution. He further submits that respondent no.2 having failed to get an injunction order in the aforesaid civil case, thereafter, she has filed the present frivolous complaint against her own in-laws and relatives, and that the learned Magistrate without appreciating the same, has taken cognizance against the petitioners herein, which is an abuse of the process of law. He further submits that petitioners are the in-laws of respondent no.2 and petitioner no.3 is the brother-in-law of respondent no.2 and as the in-laws of respondent no.2 stood by petitioner no.3 in the family dispute, a false case has been foisted by respondent no.2 against her own in-laws in order to CRL.P.4890/2018 7 humiliate and harass them. On these premises, seeking quashment of the criminal proceedings initiated against them being an accused.

5. Learned HCGP for the State who has countered the arguments advanced by the learned Counsel for the petitioners that the FIR came to be registered based on the complaint filed by respondent no.2 and that materials have been secured during the course of investigation and that the said material will have to be submitted before the Court by the prosecution during trial, and that at this stage, no conclusion could be arrived that there are no sufficient materials to constitute the alleged offences under Section 498A of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

6. Sri H.C.Nataraj, learned Counsel for respondent no.2 who is present before the Court physically, though his role under Section 301 Cr.PC is very limited to the extent of assisting the learned HCGP, submits that the suit

is filed for the relief of injunction in respect of the suit schedule CRL.P.4890/2018 8 properties and that the said suit is pending adjudication between the parties. In addition to that submission, he submits that respondent no.2 has also filed a suit in O.S.No.437/2019 for the relief of partition and separate possession of the suit schedule properties. He further submits that the pendency of the said suits do not come in the way of the trial in C.C.No.25556/2017, and therefore, prays to dismiss the petition.

7. In the above backdrop of the contentions addressed by the learned Counsel for the parties, it has to be stated here that the power of the High Court under Section 482 Cr.PC to quash the criminal proceedings at the stage of FIR and so also at the stage of C.C. is distinct and different from the power of the criminal court. The Apex Court in the case of ANAND KUMAR MOHATTA & ANOTHER VS STATE (GOVT. OF NCT OF DELHI), DEPARTMENT OF HOME AND ANOTHER AIR2019SC210 has held that there is nothing in the words of Section 482 Cr.PC which restricts the exercise of the power of the Court to prevent the abuse of process of Court or miscarriage of justice only to the stage CRL.P.4890/2018 9 of FIR. The High Court can exercise jurisdiction under Section 482 Cr.PC even if the charge sheet is filed. In this judgment, the Apex Court has referred to the judgments reported in AIR1977SC1489 AIR1992SC604, AIR2000SC754 AIR2006SC2780 2013 AIR SCW6062 and AIR2014SC1106 8. In the case of INDIAN OIL CORPORATION VS NEPC INDIA LTD. & OTHERS AIR2006SC2780 it is held by the Apex Court that any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. The Court noticed a growing trend in business circles to convert purely civil dispute into criminal cases.

9. In the case of STATE OF KARNATAKA VS L.MUNISWAMY & OTHERS AIR1977SC1489 it is held as under: 7. In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to CRL.P.4890/2018 10 continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Courts inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or prosecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice.

10. In the instant case, the FIR filed by the respondent- Police based on the complaint of respondent no.2 is absurd and improper, on perusal of which, any prudent man can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Respondent no.2 has maliciously filed the complaint with an ulterior motive to wreck vengeance against the accused and on account of personal grudge against them. In the CRL.P.4890/2018 11 present case, the criminal law is set in motion by respondent no.2 who is none other than the daughter-in-law of accused 1 & 2 and sister-in-law of accused no.3, and accused nos.4 & 5 are the brothers of accused no.1. The said act of filing the complaint by respondent no.2 against her family members is in continuation of the civil proceedings instituted by her against the very family members for injunction. That apart, though it is alleged in the complaint that the alleged incident of demanding dowry and that respondent no.2 and her husband being thrown from the residential house is said to have taken place on 11.09.2016, the complaint has been filed by respondent no.2 only on 04.11.2016 and the First Information Report is filed by the respondent-Police on 17.01.2017. There is no explanation forthcoming either from the complainant or from the prosecution with regard to the aforesaid delay. That apart, the allegations made in the FIR do not disclose the ingredients of the offence under Section 498A IPC and Sections 3 & 4 of D.P.Act. The act of respondent no.2 in setting the criminal law into motion is CRL.P.4890/2018 12 only with a view to give physical and mental harassment to the accused. It has to be further stated that no material is produced by the prosecution along with the charge sheet to come to a conclusion that the ingredients of the offence alleged against the accused prima facie appear to be true.

11. It has to be therefore held that the registration of FIR and initiation of criminal proceedings against the accused based on the complaint of respondent no.2 is only to convert purely civil dispute into criminal cases and which is nothing but an abuse of the process of the Court. Therefore, though the charge sheet is filed, the

travesty to hold the proceedings against the accused can be interefered even the allegations have materialized into a charge sheet. On the contrary, it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power under Section 482 Cr.PC is undoubtedly conferred to prevent abuse of process of power of any court. CRL.P.4890/2018 13 12. For all the reasons stated supra, I find that the prosecution against the accused is malafide, untenable and solely intended to harass the accused. Accordingly, I have to pass the following order: This criminal petition filed under Section 482 Cr.PC is allowed. The entire proceedings in C.C.No.25556/2017 pending on the file of XXIV Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.10/2017 registered by V.V.Puram Police for the offences punishable under Section 498A of IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, against accused nos.1 to 5, is hereby quashed. Sd/-
JUDGE KK

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