

Karnappa vs K.B. Rani

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Court : Karnataka Kalaburagi

Decided On : Apr-29-2025

Judge : K Natarajan,Vijaykumar a. Patil

Appeal No. : MFA/201315/2019

Appellant : Karnappa

Respondent : K.B. Rani

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH DATED THIS 29TH DAY OF APRIL, 2025 PRESENT THE HON'BLE MR. JUSTICE K NATARAJAN AND THE HONBLE MR. JUSTICE VIJAYKUMAR A. PATIL MISCELLANEOUS FIRST APPEAL NO. 201315 OF 2019 BETWEEN: KARNAPPA @ KARAN S/O HONNESH BIRADAR AGE: 38 YEARS, OCC: FORMERLY SPECIAL COMMANDO TASK FORCE (COBRA CRPF), 205, BN BARA CHATI DIST. GAYA, BIHAR AT PRESENT # E/8/2855, KEB POWER HOUSE, NEAR RAJIV GANDHI NAGAR, FILTERBED ROAD, KALABURAGI - 585104. APPELLANT (BY SRI VILAS KUMAR, SR. ADV. FOR

Digitally signed by RAMESH SRI NITESH PADIYAL, ADV.) MATHAPATI
Location: HIGH AND: COURT OF KARNATAKA

K.B. RANI D/O SUBBARAO AGE: 46 YEARS, OCC: HEAD CONSTABLE, 213TH BN CRPF G.C NAGPUR - 440019. RESPONDENT (BY SRI SHIVAKUMAR MALIPATIL, ADVOCATE) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 19(1) OF THE FAMILY COURTS ACT 1984, PRAYING TO ALLOW THIS APPEAL AND SET-ASIDE THE JUDGMENT AND DECREE DATED 01.03.2019 PASSED IN O.S. NO.27/2013 ON THE FILE OF DISTRICT JUDGE FAMILY COURT AT KALABURAGI AND CONSEQUENTLY ALLOW THE PLAINT AS PRAYED FOR AND TO PASS ANY OTHER APPROPRIATE ORDERS. -2-

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING: CORAM: HON'BLE MR. JUSTICE K NATARAJAN AND HONBLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL) This appeal is filed by the plaintiff challenging the

judgment and decree dated 01.03.2019 passed in

O.S.No.27/2013 by the District Judge and Family Court at Kalaburagi.

2. The parties are referred to as per the ranking before the Family Court.

3. The plaintiff filed O.S.No.27/2013 seeking

prayer of declaration declaring the relationship as husband and wife as null and void between the plaintiff and defendant out of the live-in relationship. It is averred that the plaintiff is working as a Constable in CRPF at different places. It is further

averred that the plaintiff visited Delhi in the year 2007 for a sports event. At that time, the

-3-

participants across the country came to Delhi to perform in the activities. At that time, he came in contact with the defendant and they become close friends and later it turned into a love affair and they were attracted to sexual affairs. This relationship further continued and very often both used to come to Delhi and used to spend a few days and have sex regularly. It is also averred that they both agreed to live together in a live-in relationship as the plaintiff is a Hindu and the defendant is a Christian, but no marriage nor any ceremony took place between them. It is also averred that the plaintiff and defendant were both working in CRPF and they very well knew that it would be difficult to get a leave or a transfer to a common place to lead a married life. Hence, they used to meet either at Hyderabad or Gulbarga and they used to stay together under one roof for a day or two and then go to their respective places.

4. It is contended that the plaintiff introduced the defendant to his parents and other family members. However, the response was very low and they never -4-

accepted the defendant as the plaintiffs wife. The relationship was only of infatuation related to sex and attraction and out of the said relation, a child was born. At that time, the plaintiff was posted at Jammu and the birth of the child was never intimated to him. It is further contended that due to love for the child, both the parties purchased a residential plot at Gulbarga and constructed a house in the name of the defendant. It is also contended that differences between the plaintiff and defendant had started and the defendant started harassing the plaintiff by abusing him in filthy language and extracting money from him. It is averred that the defendant used to visit different places and stay there for a few days without the knowledge of the plaintiff. It is also averred that she never bothered about the plaintiffs well being nor gave him respect and she used to suspect him. The plaintiff called the defendants sister and her husband and requested them to advise the defendant, but his efforts went in vain as the defendant did not change her indifferent attitude towards the plaintiff. Hence, the relationship between the

plaintiff and the defendant could not continue. It is further averred that no marriage was performed between the plaintiff and the defendant as per the customs and traditions and the relationship was only that of live-in relation. Currently, there is no live-in relationship between them and they are now separated. Hence, sought to declare that the relationship as a live-in relationship and not that of husband and wife.

5. The defendant filed the written statement,

denied the averment that the relationship between the plaintiff and defendant was only a live-in relationship. It is denied that they were attracted to sexual affairs. It is averred that the sexual affairs took place only after the marriage of the defendant with the plaintiff. The further averment that the plaintiff and defendant used to meet at different places and have sex regularly is denied. It is also averred that the plaintiff and defendant being in the same department, out of love solemnized their marriage on 03.12.2007 at Hanuman Temple, Shahabazar, Kalaburagi as per the Hindu customs and rituals. The marriage

between the plaintiff and defendant was registered with the Registrar of Marriage on 26.03.2008. It is contended that from 03.12.2007 the plaintiff and defendant were the husband and wife, they lived together and out of their wedlock, Samuel was born. It is further contended that both the plaintiff and defendant would meet at Hyderabad initially as they could not get the posting at one place and later on they started residing together as husband and wife in Kalaburagi. It is also averred that the plaintiff left the defendant at Kalaburagi in the month of January 2013 as he was transferred. Thereafter, he started behaving indifferently, he started to avoid the defendant for one or

the other reasons, he failed to discharge marital obligations and failed to take care of the defendant-wife and child. In the month of September 2013, the defendant met the plaintiff and requested him to join her, but again he avoided her. It is

denied that the plaintiffs parents did not accept the defendant and that they were in a live-in relationship against the wish of family members. It is submitted that the marriage took place as per the Hindu

-7- customs and rituals as agreed by both the parties and that they are husband and wife. The allegation of live-in relationship is denied and sought for dismissal of the suit.

6. The Trial Court framed the following issues:

1. Whether plaintiff proves that defendant and plaintiff have agreed to live together as husband and wife as live in relationship?

2. Whether defendant proves that the marriage of the plaintiff with defendant was solemnized on 31/12/2007 at Hanuman Temple, Shahabazar, Kalaburagi?

3. Whether plaintiff is entitled for declaration of relationship between plaintiff and defendant of husband and wife, as null and void?

4. What decree or order?

7. The Trial Court recorded the evidence of the parties. Plaintiff examined P.Ws.1 to 3 and got marked documents Exs.P1 to P14. The defendant examined

herself as DW.1 and got marked Ex.D1 to D8. The Trial Court on appreciation of the pleadings and evidence on record held issue No.1 negative, issue No.2 affirmative, issue No.3 negative by dismissing the suit of the plaintiff with costs. Being aggrieved this appeal. -8-

8. Sri P. Vilaskumar, learned senior counsel for the

appellant/plaintiff submits that the Trial Court has committed a grave error in appreciating the oral and documentary evidence on record. It is submitted that the defendant has failed to prove that the marriage ceremony was performed as per the requirements of law as mere production of photographs and contention in the written statement are not sufficient to prove the solemnization of marriage. It is further submitted that the certificate of marriage is only a confirmation of marriage

alleged to have been solemnized and unless the solemnization of marriage as per the rituals is proved there is no sanctity to the certificate of marriage. It is also submitted that the evidence of the defendant during the departmental enquiry is contrary to the evidence on record. Ex.P11, indicates that as on the alleged date of marriage i.e., 03.12.2007 the plaintiff was on duty at Srinagar and the Trial Court has failed to appreciate the same in its proper perspective resulting in the dismissal of the suit. It is contended that the Trial Court could not have relied on documents at

-9-

Ex.P4, nomination register of the plaintiff as the plaintiff was compelled to enter the name of defendant as a nominee, as the defendant used to constantly pressurize and black mail the plaintiff. The Trial Court failed to appreciate the evidence of PWs.2 and 3 who have deposed that the relationship between the plaintiff and defendant was only a live-in relationship. It is further contended that the defendant believes in the faith of Christianity, hence her version that there was solemnization of marriage as per the Hindu customs and rituals is false and the registration of marriage should have been under the provisions of Special Marriage Act, as both belong to different faiths. It is also contended that the plaintiff was lower in rank in the department than the defendant and the relationship was only a physical relationship and out of the said relation a child was born. The same cannot now be termed as a relationship of husband and wife. In support of his contention he placed reliance on the decision of the Honble Apex Court in the case of Dolly

- 10 - Rani Vs. Manish Kumar Chanchal,1. Hence, he seeks to allow the appeal.

9. Per contra, Sri Shivakumar Malipatil, learned counsel appearing for defendant supports the impugned

judgment and award of the Trial Court and submits that

the marriage between the plaintiff and defendant was solemnized as per the Hindu customs and rituals on 03.12.2007 and in support of such a plea, the defendant

has adduced oral evidence and produced sufficient documentary evidence on record. The Trial Court, on appreciation of the evidence has recorded a clear finding that the marriage took place between the plaintiff and the defendant and thereafter it was registered before the Registrar of Marriage and they were living as husband and wife. Hence, he seeks to dismiss the appeal.

10. We have heard the arguments of the learned counsel for the plaintiff, the learned counsel for the defendant and meticulously perused the materials on Transfer Petition No.2043/2023 dated 09.04.2024 - 11 - record. The point that arises for our consideration in this appeal are:

(1) Whether the appellant-plaintiff proves that the relationship between the appellant- plaintiff and respondent-defendant was live-in relation?

(2) Whether the respondent-defendant proves the solemnization of marriage between the appellant-plaintiff and respondent- defendant on 03.12.2007 as per the Hindu customs and rituals?

(3) Whether the impugned judgment dated 01.03.2019 passed in O.S.NO.27/2013 of the Trial Court calls for interference in this appeal?

11. The case of the plaintiff before the Trial Court

was that the plaintiff is a constable in CRPF working at different places. In the year 2007, the plaintiff visited New Delhi for sports and cultural event, at the time, he came in contact with the defendant, who also came to attend the said event and they became friends, which later turned into a love affair and they were attracted to sexual affairs.

- 12 - The said relation continued as a live-in relationship and they started residing at Kalaburagi. It is the further case of

the plaintiff that when the plaintiff introduced the defendant to his parents and other family members, they refused to accept her, the defendant displayed an indifferent attitude towards the plaintiff, she started to visit different places without informing the plaintiff and even the birth of the child was not informed to the

plaintiff as he was on duty in Jammu and Kashmir at the relevant time and thereafter they started residing separately.

12. The plaintiff examined himself as PW-1, his

evidence is nothing but a reiteration of the plaint averments. PW.1 mainly contended that the relationship between PW.1 and defendant was a physical relationship

and they were living together and there was no solemnization of marriage. PW.2 is the mother of the plaintiff, her evidence is to the effect that the defendant was blackmailing the plaintiff from 3 to 4 years and lodged a false complaint stating that she has married the plaintiff. Similarly, PW-3, claims to be the friend of plaintiff and co-

- 13 -

employee in CRPF who has deposed that the relationship between the plaintiff and defendant was only a live-in relationship and the defendant started harassing the plaintiff and she used to blackmail the plaintiff, hence the relationship became estranged. The plaintiff produced Exs.P1 to 14, the documentary evidence on record produced on behalf of the plaintiff indicate that at the instance of the defendant, departmental enquiry was conducted against the plaintiff. The oral and documentary evidence on record adduced on behalf of the plaintiff is to establish the fact that the relationship between the plaintiff and defendant was only a live-in relationship.

13. The Trial Court framed the issues and issue

No.2 puts a burden on the defendant to prove the solemnization of marriage with the plaintiff. In order to discharge the said burden, the defendant examined herself as DW.1 and got marked Exs.D1 to D8. The oral evidence of DW.1 is the same as the stand taken in the written statement. The evidence of DW.1 indicates that the plaintiff and the defendant got married and their marriage

- 14 - was solemnized on 03.12.2007 at Hanuman Temple, Shah Bazar Kalaburgi as per the Hindu Customs and rituals. In

order to prove the solemnization of marriage, the

defendant specifically denied the assertion of live-in relationship in her written statement and specifically pleaded that the marriage was solemnized as per the Hindu customs and rituals on 03.12.2007. It is also not in dispute that out of the relationship between the plaintiff and defendant, a child by name Samuel is born on

11.06.2011. The defendant produced Ex.D1-original gas book and the said document indicates that she has obtained gas connection at Kalaburagi and her husband name is referred to as Karnappa i.e., the plaintiff. Ex.D2 is the Marriage Registration Certificate dated 26.03.2008 issued by Registrar of Marriage, Gulbarga. The said document indicates the date of marriage as 03.12.2007, place of marriage as Hanuman Temple, Shah Bazar, Kalaburagi with the name, full address of the bride groom, signature i.e., plaintiffs name, address and signature, full name of bride, address and signature i.e., defendants

- 15 -

name, address and signature along with three witnesses address and signatures are found. Ex.D3, the original gas subscription of Indian Oil Corporation which also indicates the name of the defendant as a customer and her husband name as a Karnappa i.e, plaintiff. Ex.D4 is a nomination form filled by the plaintiff and submitted to his employer. The plaintiff referred the defendant Smt.B.Rani as his wife and nominee for all his retiral benefits. Ex.D5 is the birth certificate issued by Navajeevan Hospital, Shamshabad dated 22.08.2013 which indicates that the defendant wife of plaintiff gave birth to a male child on 11.06.2011 in the

said hospital. Exs.D6 to D8, are the photographs of the plaintiff and defendant. The oral evidence of DW.1 and documentary evidence on record clearly demonstrate that the plaintiff and defendant got married on 03.12.2007 at Hanuman Temple, Shah Bazar, Kalaburagi, as per the Hindu customs and rituals.

14. The Trial Court on appreciation of the oral and documentary evidence has recorded a clear finding that the defendant has proved that the marriage of the plaintiff - 16 -

and defendant was solemnized on 03.12.2007 at Hanuman Temple, Shah Bazar, Kalaburagi. The said finding of the Trial Court is neither perverse nor contrary to the evidence on record calling for interference in this appeal. The solemnization of marriage is as per the Hindu customs and rituals. The Defendant has clearly deposed that both have agreed to perform their marriage at Hanuman Temple, Shah Bazar, Kalaburagi, as per the Hindu customs and rituals and thereafter the marriage was performed and later it was registered before the Registrar of Marriage. The pleadings and evidence on record clearly demonstrate that the marriage between the parties was solemnized as per the Hindu customs and rituals which meets the requirement of law. The contention that the defendant belongs to Christian faith is not proved by the plaintiff and even otherwise also the defendant has clearly pleaded and deposed that both have agreed to perform their marriage as per the Hindu customs and rituals and thereafter the marriage was performed. Hence, the contrary contention urged by the plaintiff has no merit for consideration. The

- 17 - decision relied by the learned counsel for plaintiff in Dolly

Ranis case referred supra has no application to the facts

of the case. In the instant case the marriage was solemnized as per the Hindu customs and rituals and thereafter the marriage was registered before the Registrar of Marriage.

15. The pleading and evidence on record clearly

indicates that the plaintiff and defendant, after the marriage started living together as husband and wife and performed marital obligations as is evident from the material on record. Ex.D1 and D3 indicates that they were residing together as husband and wife under one roof and their marriage was registered before the Registrar of Marriage and thereafter the plaintiff entered the name of defendant as

a nominee for his service benefits with his employer, these ample evidence on record demonstrate that the relationship between the plaintiff and defendant was not a live-in relationship as contended by the plaintiff but rather it was a husband and wife relationship. The other contention of the plaintiff that the trial Court has

- 18 -

erred in not considering Ex-P11 does not hold merit, as mere production of document is not sufficient to prove its contents. The plaintiff has failed to examine the author of Ex.P.11 or any competent person from the department to prove the contents of Ex.P.11. Hence, in view of the absence of supporting evidence to prove the contents of Ex-P11, the said contention is required to be rejected.

16. The Trial Court, on appreciation of pleading,

evidence and law on the subject has recorded a detailed finding and come to the conclusion that the defendant is able to prove that the marriage between the plaintiff and defendant was solemnized on 03.12.2007 at Hanuman Temple, Shah Bazar, Kalaburagi, as per the Hindu customs and rituals. The said finding of the Trial Court is neither perverse nor contrary to the evidence on record calling for interference in this appeal.

17. The certificate of marriage serves as a

conclusive proof of marriage which makes it easier to establish the marital status of the party unless the opposite party rebuts that presumption. The presumption -
19 -

of marriage refers to a legal assumption that the marriage is valid based on its registration unless that presumption is rebutted by legally acceptable evidence. In the case on hand, the long cohabitation between the parties, the conduct of the plaintiff in nominating the defendant for his retirement benefits, birth of child and also the certificate of marriage create a strong presumption of solemnization of marriage. There is a heavy burden on the plaintiff to

disprove the relationship of its presumption. The defendant herein is able to establish the solemnization of marriage by legally acceptable evidence, however the plaintiff has failed to disprove the evidence adduced by the

defendant. Hence, in view of the evidence, the presumption of marriage between the parties is required to be upheld. Our view gains support from the decision of the Honble Supreme Court in the case of Badri Prasad Vs. Dy. Director of Consolidation². Hence, the points formulated above are answered in favour of the defendant and against the plaintiff.

(1978) 3 SCC 527 - 20 -

18. For the aforementioned reasons, we proceed to pass the following:

ORDER

(i) The appeal is devoid of merits and the same is dismissed.

(ii) No order as to costs. Sd/- (K NATARAJAN) JUDGE Sd/- (VIJAYKUMAR A. PATIL) JUDGE MCR CT: PS

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