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Habeeba vs the State by

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Court : Karnataka

Decided On : Feb-01-2025

Judge : Mohammad Nawaz

Appeal No. : CRL.P/405/2025

Appellant : Habeeba

Respondent : The State by

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ CRIMINAL PETITION NO. 405 OF 2025 BETWEEN:

1. HABEEBA AGED ABOUT 45 YEARS, W/O. HAMAD BAVA, R/AT DOOR NO. 5-225/G, BADDAKATTE HOUSE, BANTWAL KASABA VILLAGE, BANTWAL TALUK - 574 211.

2. HAMAD BAVA AGED ABOUT 49 YEARS, S/O. ABBOBAKKAR. B, R/AT DOOR NO. 5-225/G, BADDAKATTE HOUSE BANTWAL KASABA

VILLAGE, Digitally signed by BANTWAL TALUK - 574 211. LAKSHMI T PETITIONERS Location: High Court of Karnataka (BY SRI. ABDUL ANSAR, ADVOCATE FOR

SRI. ABDUL MAJID KHAN, ADVOCATE) AND: THE STATE BY MANGALORE WOMEN PS, DAKSHINA KANNADA, MANGALORE, REPRESENTED BY STATE PUBLIC PROSECUTOR, HIGH COURT BUILDING, BENGALURU - 560 001. RESPONDENT (BY SRI. HARISH GANAPATHY, HCGP) -2- THIS CRL.P IS FILED U/S 438 OF CR.PC (FILED U/S 482 BNSS) PRAYING TO ENLARGE THE PETITIONERS ON ANTICIPATORY BAIL IN THE EVENT OF THEIR ARREST FOR THE ALLEGED OFFENCES PUNISHABLE UNDER 84, 74, 352, 351(2), 3(5) OF BHARATIYA NYAYA SANHITA AND UNDER SECTION 3, 4 OF DOWRY PROHIBITION ACT AND UNDER SECTION 4 OF THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE) ACT BY RESPONDENT MANGALORE WOMEN POLICE, MANGALORE CITY IN CONNECTION WITH CRIME NO. 112/2024 IS NOW PENDING BEFORE HONBLE COURT OF III J.M.F.C COURT JUDGE MANGALORE. THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE MOHAMMAD NAWAZ

ORAL ORDER

Petitioners, arraigned as accused Nos.2 and 3 in Crime No.112/2024 of Mangaluru Women Police Station, Mangaluru City, have preferred this petition under Section 482 of BNSS, 2023 praying to enlarge them on anticipatory bail. -3-

2. Heard both sides and perused the material on record.

3. The above mentioned Crime is registered on a

complaint lodged by one Smt. Ayishath Thabseera against accused Nos.1 to 7, for offences punishable under Section 84, 74, 352, 351(2), 3(5) of BNS, 2023, under Section 3, 4 of Dowry Prohibition Act, 1961 and under Section 4 of the Muslim Women (Protection Of Rights On Marriage) Act, 2019.

4. Accused No.1 is the husband of the complainant. Accused Nos.2 and 3 are the parents, accused Nos.4 to 7 are the sister, brother-in-law and brothers of accused No.1.

5. Petitioners are the parents of accused No.1.

Various allegations are made in the complaint alleging dowry harassment, ill-treatment, etc., meted to the complainant by her husband and in-laws. She alleged that the accused were forcing her to get money from her parental home and her husband had taken hand loan from -4-

one Prabhanna pledging her gold as collateral. During her pregnancy, the complainant was allegedly neglected by her husband and in-laws, who harassed her. She gave birth to a male child, but one and a half months after the marriage, her husband went to Saudi Arabia, leaving her without financial support. It is further alleged that her husband engaged in an illicit relationship with another woman.

6. The allegations against the petitioners i.e., the

parents of accused No.1 are that even they were unnecessarily harassing the complainant coercing her to obtain money from her parental home, and threatening her with further harassment if she did not comply. They also allegedly threatened to arrange another marriage for their son. On 14.09.2024 accused No.1 allegedly pronounced 3 times talaq to the complainant and all the accused sent her out of the matrimonial house.

7. Complainant's marriage with accused No.1 took place on 14.02.2022. It is alleged that at the time of -5-

marriage, gold ornaments were given, as per the demand of the accused and marriage was performed spending about Rs.8,00,000/-. The complainant gave birth to a male child on 02.10.2023. Accused No.1, after about one and half months of the marriage, went to Saudi Arabia and all the accused have subjected her to physical and mental cruelty, demanding money and on 14.09.2024, she was driven out of the house etc.

8. It appears that there is a serious matrimonial dispute between the complainant and her husband/accused No.1. Petitioners are the parents of accused No.1.

9. Learned counsel for petitioners has contended

that the entire allegations are false and petitioners are innocent of the offences alleged against them. Petitioners are respectable persons having deep roots in the society. They are ready and willing to co-operate with the investigation of the case and abide by any conditions. -6-

10. The Honble Apex Court in Siddharth V/s. State of Uttar Pradesh and Another reported in

(2022) 1 SCC 676 has held that, as personal liberty of a

person is an important aspect of the constitutional mandate, the occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or is a heinous crime or where there is a possibility of influencing the witnesses or possibility of accused absconding. If arrest is made routine, it can cause incalculable harm to the reputation and self esteem of a person.

11. The allegations made against the petitioners have to be proved in due course. Considering the facts and circumstances of the case, petitioners can be granted the relief sought imposing conditions. Accordingly, the following:-

ORDER

i) Petition is allowed. -7- ii) Petitioners / accused Nos.2 and 3 in Crime No.112/2024 of Mangaluru Women Police Station, shall be released in the event

of their arrest subject to following conditions: a) They shall appear before the Investigating Officer within a period of ten days

from the date of receipt of a copy of this order

> and shall execute a bond in a sum of Rs.1,00,000/- (Rupees One Lakh Only) each with one surety for the likesum. b) They shall furnish proof of their residential address and shall inform the Investigating Officer/Court, if there is any change in the address. c) They shall be available for the purpose of investigation as and when required and shall co-operate with the investigation. d) They shall not leave the jurisdiction of the trial Court without prior permission till completion of the investigation of the case. e) They shall not tamper with the prosecution witnesses either directly or indirectly. -8-

f) They shall be regular in attending the Court proceedings. Sd/- (MOHAMMAD NAWAZ) JUDGE LDC List No.: 1 Sl No.: 24 CT: BHK

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