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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 24TH DAY OF APRIL 2017

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAL. R.B

CRIMINAL PETITION NO.100532/2016

BETWEEN:

1. Smt.Sushma Pattanshetti,
Aged about 60 years,
R/o No.AS-1801, Jai View Society,
Thithim Tower, Link Road,
Andheri West, Mumbai,
State-Maharashtra.
2. Smt.Nanda D/o Chandrashekar
Shettar @ Mahananda Ullagaddi,
Aged about 27 years,
R/o No.17228, Over Stone C.T.
Charlotte North Carolina,
County of Mecklenburg,
United States of America.
3. Sheetal D/o Chandrashekar Shettar,
Aged about 28 years,
R/o Harlech Court, Terpine Selitine,
CH 8 Kwe Kwe, United Kingdon.

...Petitioners

(By Sri.Neelendra D.Gunde and
Sri.Mahantesh R.Patil,
Sri.B.Anand Advocate for P-1)

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The State of Karnataka,
Represented by its
Women Police Station,
Hubli North Sub-Division,
Hubballi.

...Respondent

(By Sri. Raja Raghavendra Naik, HCGP for R-1
Sri.Jagadish Patil, Advocate for R-2)

This Criminal Petition is filed under Section 482 of Cr.P.C praying to quash the complaint dated 12.05.2015 produced at Annexure-R, entire proceedings in Crime No.19/2015 and also the entire proceedings of CC.No.2326/2015 on the file of the Principal Civil Judge (Jr.Dn) and JMFC, Hubballi for the alleged offence punishable under Sections 498A, 323, 504 R/w. Sec.149 of IPC and Section 3 and 4 of Dowry Prohibition Act, produced along with this criminal petition at Annexure-T.

This petition coming on for hearing, this day, the court, made the following:

ORDER

This petition is filed by the petitioners/accused Nos.4 to 6 under Section 482 of Cr.P.C praying the Court to quash the complaint dated 12.05.2015 produced as per

Annexure-R and entire proceedings in Crime No.19/2015 and also entire proceedings in CC.No.2326/2015 on the file of the Principal Munsiff and JMFC, Hubballi for the alleged offence punishable under Sections 498A, 323, 504 read with Section 149 of IPC and also under Sections 3 and 4 of the Dowry Prohibition Act.

2. Brief facts leading to filing of this petition that one Smt.Sheela who is the complainant in the instant petition was married to one Sri.Mahantesh Shettar at Rambhapuri Jagadguru Veeragangadhar Samudaya Bhavan, at Hubballi on 29.05.2013 as per Hindu Customs. The complainant was making allegations that, the complaint against Mahantesh the husband, so also there are allegations sofar as the present petitioners that they are instigating the husband of the complainant to come to the house in drunken state and to seek divorce from the complainant. On the basis of the same complaint case came to be registered before H.A.L. Police in its Crime No.170/2015 on 28.02.2015 on the basis of the FIR investigation conducted

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and the charge sheet came to be filed. Aggrieved by the same the petitioners/accused Nos.4 to 6 have approached this Court by way of this petition on the grounds as mentioned in the petition.

3. Heard the arguments of the learned counsel appearing for the petitioners/accused No.4 to 6, so also learned counsel appearing for the respondent No.2/complainant and learned HCGP appearing for the respondent No.1-State.

4. Learned counsel appearing for the petitioners during the course of argument made the submission that, though there is complaint, so also the charge sheet filed after investigation by the police machinery, but looking to the allegations in the complaint as well as in the charge sheet material collected during the investigation, there is no prima-facie case as against the present petitioners. He also made the submission that, even the allegations made in the complaint also will not constitute the alleged offences as against the present petitioners. He made the

submission that petitioner No.1 who is the accused No.4 residing at Bombay. Petitioner No.1 never resided with complainant and her husband and other family members of the complainant and her husband. Sofar as petitioner No.2/accused No.5 is concerned, learned counsel made submission that, she was residing in USA and she came to India during the period of 20.5.2013 to 17.06.2013. The learned counsel drew the attention of this Court to page No.49 of file, wherein passport also produced in this connection. Sofar as petitioner No.3 is concerned, it is his submission that, petitioner No.3 was also residing at abroad and came to India on 23.05.2013 upto 13.06.2013. In this connection also he submitted that the passport entries confirm the dates and visit of the petitioner No.3 to India. Hence it is his contention that, when said documentary material is available this clearly goes to falsify the allegations of the complainant made in the complaint, that there is a false implication of petitioners/accused No.4 to 6 in this case as well as he submitted that it is abuse of the process of the court and

there is no material to proceed as against the present petitioners. Learned counsel submitted that, even if the case is proceeded no purpose will be served as against the petitioner/accused No.4 to 6. In this connection learned counsel also relied upon the decision of the Hon'ble Apex Court reported in 2010 (3) G.L.H. 258 wherein the Hon'ble Apex Court referred to the case of Preeti Gupta and Another Vs.State of Jharkhand and Another. Learned counsel drew the attention of this Court to relevant paragraph of para No.30 and onwards so also relied on another decision of the Hon'ble Apex Court reported in (2016) 3 SSC 724 and he made the submission that, even considering the principles enunciated in the said decision also it supports the contentions of the petitioners herein that, there is no case against petitioners/accused Nos.4 to 6 as well as he submitted, when there is no satisfactory and sufficient material as against the present petitioners and other main materials of fact that they used to reside in abroad and only occasionally they were coming to India. They will be harassed if the proceedings are not quashed.

Hence he submitted to allow the petition and to quash the proceedings.

5. Per Contra, the learned counsel appearing for respondent No.2-complainant during the course of argument, made the submission that, looking to the allegation made in the complaint so also the charge sheet material it cannot be said that proceedings are totally groundless, or there is no prima-facie case as against the petitioners herein and also cannot be said that the proceedings are liable to be quashed by this Court invoking Section 482 of Cr.P.C. The learned counsel submitted that in the complaint as well as in the charge sheet material there are allegations as against the present petitioners to make out the case that even accused Nos.4 to 6 have instigated to the husband of the complainant, to consume alcohol and file petition seeking divorce as against his wife, the counsel made the submission that investigation is completed charge sheet has been filed by the Investigating Officer. If at all it is held that, there is no prima-facie

material, they were at liberty to move concerned trial Court to file necessary application seeking their discharge. Hence learned counsel opposed the petition on this ground also, there is no merit in this case, submitted to reject the petition.

6. Learned High Court Government Pleader representing-State during the course of argument made the submission that the trial Court rightly initiated the proceedings on the basis of the material. Even there is charge sheet material collected during investigation making out a prima-facie case as against the present petitioners also and hence he submitted that there is no merit in the petition seeking to quash the criminal proceedings.

7. I have perused the grounds urged in the petition, complaint and FIR and also documents produced. Looking to the passport and other documents and also the order passed by the trial Court, the entire order sheet produced by the petitioners along with petition, so also I have

perused the charge sheet material produced by the learned counsel appearing for the petitioners along with memo, so also the decision of the Hon'ble Supreme Court relied upon by the learned counsel appearing for the petitioners which is referred above, looking to the allegations made in the complaint which are considered to be foundation in criminal case, sofar as present petitioners are concerned the allegations in the complaint that from the date of the marriage dated 30.05.2013 that her mother-in-law, father-in-law, husband and sister of the mother-in-law, sister-in-laws instigated and supported the vices of the husband of the complaint and they were insisting the husband of the complainant to seek divorce from the complainant and all this things took place at Hubli. Perused the entire complaint which consists of four pages this is the only allegation made in the complaint sofar as present petitioners are concerned, sofar as the instigation is concerned as alleged in the complaint there are no details and there is specific date. Only bald allegation are made that even petitioners were also giving instigation to the

husband of the complainant about his vices to get divorce from the complainant, so also perusing the charge sheet material the statement of the witnesses and the relevant last column of the charge sheet, they also goes to show similar allegations what is there in the complaint except that there is no other allegations against them and perused the complaint the allegations are serious, the allegations are against the husband of the complainant. I have perused the documents that is passports produced by the petitioner Nos.2 and 3 are concerned, looking to the passport as submitted by the learned counsel for the petitioners/accused whatever date the learned counsel has furnished the passport entries are tallying with the details, sofar as petitioner Nos.2 and 3 is concerned that the period that they came to India by using the said passport so even the contention of the petitioners herein regarding their travel from abroad to India prima-facie supports said material. I have also perused the the decision relied upon by the learned counsel appearing for the petitioners and the relevant paragraph in the said decision, looking to this

decision also they fully supports the case of the petitioners herein and perused entire material placed on record, I am of the opinion that, there is no prima-facie material placed by the prosecution as against the present petitioners, it is nothing but abuse of the process of Court. Therefore, as submitted rightly by the learned counsel for the petitioners, continuing the criminal proceedings as against the petitioners is concerned, it is only futile exercise and no purpose will be served. Accordingly petition is allowed, criminal proceedings initiated against the present petitioners are quashed.

**Sd/-
JUDGE**

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