

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31st DAY OF JULY, 2017

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

CRIMINAL PETITION NO.1304/2014

BETWEEN:

G. RAMAMOORTHY
S/O. B. GANESAN
AGED ABOUT 55 YEARS
RESIDING AT: NO.4/53
NEW NO.3/110
GANDHI ROAD
PERIYANGKUPPAM POST
AMBUR TALUK
VELLORE DISTRICT
TAMIL NADU
PIN CODE - 635814

... PETITIONER

(BY SRI A. S. KULKARNI, ADV.)

AND:

1. THE STATE OF KARNATAKA
BY INDIRANAGAR POLICE STATION
BENGALURU - 560 038
2. MS. SANDHYA MAHESH
W/O. YUKESH RAJKUMAR RAMAMOORTHY
D/O. SRI MAHESH K.
AGE: 27 YEARS
RESIDING AT: No.63,
MICHAEL PALLYA
1ST CROSS, II STAGE
NEW TIPPASANDRA POST
BENGALURU - 560 075

...RESPONDENTS

(BY SRI S. RACHAIAH, HCGP. FOR R1
SRI CHANDRASHEKAR, ADV. FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING THIS HON'BE COURT TO QUASH THE FIR REGISTERED AGAINST THE PETITIONER/ACCUSED NO.2 IN THE INDIRANAGAR POLICE STATION IN CR.NO.36/2014 FOR THE ALLEGED OFFENCES P/U/Ss.176, 197, 175, 177, 182, 498A, 120B, 418, 468, 116, 119, 417 OF IPC AND SECTIONS 3 AND 4 OF D.P.ACT ON THE FILE OF X A.C.M.M., BANGALORE ETC.

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

ORDER

Though matter is listed for orders, by consent of learned counsel appearing for both parties, this petition is taken up for final disposal.

2. Heard Sri A.S.Kulkarni, learned counsel appearing for petitioner, Sri S. Rachaiah, learned High Court Government Pleader appearing for respondent No.1 and Sri Chandrashekar, learned counsel appearing for respondent No.2. Perused the records.

3. Marriage between son of the petitioner and second respondent came to be solemnized on 31.05.2012 at Tiruchendur in the State of Tamil

Nadu and was registered on 04.06.2012 in the office of the Sub-Registrar, Ambur, Vellore District, Tamil Nadu. On 24.06.2012, accused No.1 proceeded to London and respondent No.2 joined accused No.1 at London on 16.07.2012. On 03.01.2014, respondent No.2 came back to Bengaluru and filed a petition for divorce. It was her contention in the petition filed under Sections 12(1)(c) and 13(1)(ia) of Hindu Marriage Act, 1955, for divorce that she had been induced to marry son of the petitioner by misleading many facts and there was demand for dowry and harassment in that regard as well. On these lines amongst other allegations she filed a petition for divorce apart from lodging a complaint before the Indiranagar Police Station on 01.02.2014 which came to be registered against petitioner (father-in-law of second respondent herein) and two others in crime No.36/2014 for the offences punishable under Sections 176, 197, 175, 177, 182, 498A, 120B, 418, 167, 420, 468, 116, 119, 417 of IPC read with Sections 3 and 4 of Dowry Prohibition Act, 1961. On

account of absence of accused No.2 (husband of petitioner) investigation is said to have been not completed by the jurisdictional police. Petitioner herein who is the father-in-law of the complainant (second respondent herein) has approached this Court for quashing of FIR registered against him contending that it is an abuse of process of law.

4. It is the contention of Mr.A.S.Kulkarni, learned counsel appearing for the petitioner that complaint allegations *per se* would disclose that no part of the offence has taken place within the jurisdiction of Indiranagar Police Station, Bengaluru and all the alleged incidents have taken place at Ambur, Vellore District, State of Tamil Nadu; a reading of entire allegations made in the complaint would not disclose about any allegation with regard to dowry demand and taking of dowry by accused No.2 can be found; acts of furnishing wrong information or act of omission to furnish right information at the time of registration of the marriage

by the complainant (respondent No.2) and accused No.1 had taken place at Ambur, Vellore District, State of Tamil Nadu and commission of alleged offences even if any by the petitioner (accused No.2) is only at Ambur, Vellore District, State of Tamil Nadu and there being no material to establish *prima facie* that petitioner had concealed or had decided to commit such offence, Section 120B of IPC is not at all attracted. Hence, he contends that there is no material available on record to hold that petitioner had entered into a criminal conspiracy for the alleged offences under Section 120B of IPC. He would also submit that initially complainant tried to file a case before Ulsoor Gate Women Police Station, Cubbonpet, Bengaluru on 31.01.2014 but they had refused to register said complaint for want of jurisdiction and only thereafter, on 01.02.2014 complaint in question on same set of facts came to be presented before Indiranagar Police Station, Bengaluru by striking out the name of Ulsoor Gate Women Police Station and substituting it to Indiranagar Police Station. He

would also contend that all overt-acts alleged to have been made by petitioner has taken place at Ambur, Vellore District, Bengaluru and as such, false complaint against the petitioner has been filed at Bengaluru by concealing material facts only to harass the petitioner and hence, he seeks for quashing the FIR registered against petitioner.

5. Mr. Chandrashekar, learned counsel appearing for respondent No.2 would support the proceedings initiated by Indiranagar Police Station against the petitioner and contends that averments made in the complaint cannot be read in isolation and it has to be read along with allegations made in M.C.No.448/2014 inasmuch as, same has been referred to in paragraph No.12 of the complaint lodged before Indiranagar Police Station. Hence, it is contended by him that a holistic reading of complaint as well as averments made in M.C.No.448/2014 would clearly disclose that it is a continuing offence which had also occurred in Bengaluru and no error is

committed by the Indiranagar Police in registering the criminal case and proceeding with the investigation. Hence, he prays for rejection of the petition.

6. Sri S. Rachaiah, learned HCGP appearing for respondent No.1 – State would draw the attention of the Court to the allegations made in the complaint averments to contend that even according to the complaint allegations, the incident of registration of the marriage between accused No.1 and respondent No.2 has taken place at Ambur, Vellore District, State of Tamil Nadu and as such, he prays for suitable orders being passed by this Court.

7. In the light of rival contentions raised as noted hereinabove, the allegations made in the complaint requires to be examined in order to ascertain as to whether any part of the alleged offences had taken place within the jurisdiction of Indiranagar Police Station or not. The complaint though runs into several pages, specific allegation

made against present petitioner - accused No.2 can be traced at paragraph No.19 and it reads as under:

“19. I state that on discovering the intentional misrepresentation in the marriage register by the accused 1 and accused 2 as regards to the material particulars like i.e., under occupation column 1 have been mentioned as ‘house wife’ though they knew that I mentioned as ‘house wife’ though they knew that I was working with Accenture as a software engineer till 17-05-2012 and resigned for the marriage and on the assurance of accused no.1 that my visa and travel documents will be in place before marriage and by the schedule date of his departure to London on 24-06-2012, which could not happen due his fault, I further state that under occupation column of my mother she has been mentioned as ‘House Wife’ though they knew she is a practicing advocate in High Court of Karnataka, at Bangalore. I state that NRI column of accused no.1 as husband has been left blank purposefully, and according to me if these columns of NRI have been filled (a copy of his passport and visa details would have been enclosed after due attestation), hence the omission has been intentional and with ulterior motive and such intention has been accommodated by the connivance or dereliction of duty by the public servant in the position of a marriage registrar in contradiction to the statutory rules of the state and

defeating the intention of the legislature, hence the marriage is null and voidable abinitio. In view of the reasons stated above in this Para, I state that the accused no.2 has abetted the said offences committed by accused no.1 and as such he is **liable to be charged for abetment to Domestic Violence Act 2005 and Section 3 and 4 of Dowry Prohibition Act 1986 and under Section 120 and 120B of IPC, under said provisions of law in the ends of justice.**

AND

I state that in view of the reasons stated above in this Para 20, I state that accused no.3 being a public servant has committed offence and abetted the crime of the 1st and the 2nd accused and his offence attributable to **Sections 116, 119, 120, 120B, 167, and Section 197 of Indian Penal and Code, and also under relevant section of IPC for abetment of crime by accused no.1 and 2 during the process of registration of marriage under statutory provisions Hindu Marriage Act, 1955 and Tamil Nadu Hindu Marriage (Registration) Rules 1987 in the ends of justice."**

(emphasis supplied by me)

8. Since learned counsel appearing for respondent No.2, Mr. Chandrashekar, has also very

heavily relied upon the allegations made in paragraph No.12 of the complaint to support the registration of FIR, same is perused by this Court.

9. A bare reading of above allegations made in the complaint would disclose that complainant is alleging that when her marriage with accused No.1 came to be registered, there has been dereliction of duty by the Registrar of Marriage and petitioner herein has abetted in the said act. Insofar as, purported acts committed by the present petitioner-accused No.2, nothing is stated. However, reliance is sought to be placed on the averments contained in the petition filed for divorce in M.C.No.448/2014 and reference to the same can be found in the paragraph 12 of the said petition wherein it has been alleged by the complainant i.e., respondent No.2 herein as under:

“12. xxxxxxxxx I state that I have stated in very detail in Para 26 to 33 of my divorce petition in the Annexure – A. I state that the contention of Para 26 to 33 be read as part and parcel of this

complaint in order to avoid repetition of my allegation against accused no.1.”

10. On reading of the averments made in the complaint, particularly paragraph No.19, it would clearly indicate that sum and substance of the allegation which the complainant wants to drive home against accused No.2 - petitioner herein is that he had connived with the Marriage Registrar namely the Sub-Registrar, Ambur, Veilore District, State of Tamil Nadu in getting the marriage registration of complainant with his son by entering or filling up the registration forms by giving false/wrong information that complainant is a house wife though petitioner and his family members very well knew that complainant was working as a Software Engineer at Accenture, Bengaluru. It is also her allegation in the complaint that ‘occupation’ of complainant’s mother has been entered as ‘House Wife’ though complainant’s mother is a practicing advocate at High Court of Karnataka, Bengaluru and yet petitioner had

furnished such false information. On these grounds she has alleged that accused No.2 had abetted the offences under Sections 120 and 120B of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961.

11. At the threshold, submissions of Sri Chandrashekar, learned counsel appearing for respondent No.2 has to be rejected *in limine* inasmuch as, complainant – respondent No.2 is not an illiterate person. She is working as a Software Engineer at a Multinational Software Company known as “Accenture” at Bengaluru and is having worldly knowledge. Yet, keeping her eyes wide open she had signed marriage registration form/s, which came to be filed before Registrar of Marriage at Ambur, knowing fully well the contents of said documents and without any demur or protest she has also affixed her signatures to the Marriage Register. She did not raise her little finger even thereafter nor did she protest that information furnished in marriage registration forms are false before any other authority

which according to her had been concealed before the jurisdictional statutory authorities i.e., Marriage Register while filing such forms. It is only when marriage between herself and accused No.1 broke down due to irretrievable differences, she has now come up with such a plea. That apart, she has herself admitted in her complaint that she had resigned from said job on 17.05 2012 itself. Even if it were to be so, her status as on the said day was an employee of the said firm, she did not object about her particulars being filled up by her father-in-law i.e., petitioner. One another reason to reject the submission of Mr. Chandshekar, learned counsel appearing for respondent No.2 is, complainant has alleged in her complaint about acts committed by the petitioner at paragraph No.12 of the complaint by referring to paragraph Nos.26 to 33 of the divorce petition filed in M.C.No.448/2014 and she has prayed that same be read as part of her complaint. A reading of even those paragraphs does not remotely suggest the offences under Sections 116, 119, 120,

120B, 167 & 197 of IPC and as such, contention raised in that regard stands rejected.

12. Now turning my attention to the core issue namely, jurisdictional aspect which has been raised by learned counsel for petitioner that no part of alleged offence has taken place at Bangalore, merits acceptance for the simple reason that reading of the allegation made in the complaint would clearly disclose that all the alleged offences stated to have been committed by accused persons have taken place at Ambur, Vellore District, State of Tamil Nadu and no part of such offences has occurred at Bengaluru within the jurisdiction of Indiranagar Police Station.

13. The Hon'ble Apex Court in the case of **Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another** reported in 2004 (8) SCC 100 while examining the word expression 'cause of action' occurring in Section 177 of Cr.P.C., namely, "*the ordinary place of inquiry and trial*" has held, it is akin to word or expression 'cause of action' as occurring in

civil matters and held that expression 'cause of action' is not a stranger to criminal cases. While examining as to whether a complaint lodged before the Magistrate Court, Chennai was entertainable or not, it came to be held:

“15. The expression “cause of action” has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the right itself. Compendiously, the expression means every fact, which it would be necessary for the complainant to prove, if traversed, in order to support his right or grievance to the judgment of the court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove such fact, comprises in “cause of action”.

16. The expression “cause of action” has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts.

17. The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. In Black's Law Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edn.), the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

18. In Halsbury's Laws of England (4th Edn.) it has been stated as follows:

"Cause of action' has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. 'Cause of action' has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint,

or the subject-matter of grievance founding the action, not merely the technical cause of action. ”

14. Having regard to above referred authoritative pronouncement of Hon'ble Apex Court, this Court is of the considered view that it is the place where the offence was committed within the jurisdiction of the Courts so constituted would be the jurisdictional Court, which would have jurisdiction to try the offences committed by accused. Keeping this in mind when facts on hand are examined, it would disclose that offences alleged to have been committed by the petitioner – accused No.2 as abettor of concealing the information or furnishing improper or incorrect information to the Marriage Registrar was at Ambur, Vellore District, State of Tamil Nadu and no part of said offence has taken place within the jurisdiction of Indiranagar Police Station or the 10th ACMM, Mayo Hall, Bengaluru and as such, complaint lodged by respondent No.2 before Indiranagar Police Station itself could not have been entertained and as

such, all consequent proceedings pursuant to registration of complaint was not maintainable insofar as petitioner is concerned. In that view of the matter, relief sought for by the petitioner in this petition deserves to be granted.

Hence, I proceed to pass the following:

ORDER

- (i) Criminal petition is hereby allowed.
- (ii) FIR registered in Crime No.36/2014 registered against petitioner (accused No.2) by Indiranagar Police Station for the offences under Sections 176, 197, 175, 177, 182, 498A, 120B, 418, 167, 420, 468, 116, 119, 417 of IPC and Sections 3 and 4 of IPC is hereby quashed.

- (iii) Complainant would be at liberty to file fresh complaint against petitioner before the jurisdictional police station, if so advised. No opinion is expressed on merits.

**SD/-
JUDGE**

nvj