



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 12<sup>TH</sup> DAY OF OCTOBER, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE R. NATARAJ**

**CRIMINAL PETITION NO. 7931 OF 2022**

**C/W**

**CRIMINAL PETITION NO. 7825 OF 2022**

**IN CRL.P.NO.7391 of 2022**

**BETWEEN:**

1. SRINIVAS SAGAR.B,

2. K.N.BHEEMASHANKAR,

3. SUMITHRA DEVI,

...PETITIONERS

(BY SRI. RAVI H.K, ADVOCATE)

Digitally  
signed by  
SUMA  
Location:  
HIGH  
COURT OF  
KARNATAKA



**AND:**

1. THE STATE BY P.S.I  
WOMEN POLICE STATION,  
DAVANAGERE CITY SUB-DIVISION,  
DAVANAGERE - 577 002.
2. MAHESHWARA,

...RESPONDENTS

(BY SRI. RAJAT SUBRAMANYAM, HCGP FOR R1;  
SRI. SHIVAPRASAD SHANTANAGOUDAR, ADV.FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO  
QUASH THE PROCEEDINGS IN P.C.R.NO.18/2022 ON THE FILE  
OF II ADDITIONAL CIVIL JUDGE (SR.DN.) AND J.M.F.C.,  
DAVANAGERE AND THE FIR REGISTERED IN CR.NO.90/2022  
AGAINST THE PETITIONERS BY THE RESPONDENT NO.1 FOR  
THE OFFENCE P/U/S 494, 495, 496, 34, 498A AND 420 OF IPC.

**IN CRL.P.NO.7825 of 2022**

**BETWEEN:**

1. DR.SHANKAR DAYANANDA SAGAR,
2. SHEENA MANHAPALLY,



...PETITIONERS

(BY SRI. RAVI H.K, ADVOCATE)

**AND:**

1. THE STATE BY P.S.I  
WOMEN POLICE STATION,  
DAVANAGERE CITY SUB-DIVISION,  
DAVANAGERE - 577 002.
2. MAHESHWARA,

...RESPONDENTS

(BY SRI. RAJAT SUBRAMANYAM, HCGP FOR R1;  
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THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH PROCEEDINGS IN P.C.R.NO.18/2022 ON THE FILE OF II ADDL. CIVIL JUDGE (SR.DN.) AND J.M.F.C COURT, DAVANAGERE AND THE FIR REGISTERED IN CR.NO.90/2022 AGAINST THE PETITIONERS BY THE RESPONDENT NO.1 FOR THE OFFENCE P/U/S 494, 495, 496, 34, 498A AND 420 OF IPC.

THESE PETITIONS, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:



**ORDER**

CrI.P.No.7931/2022 is filed by accused Nos.1 to 3 and CrI.P.No.7825/2022 is filed by accused Nos.4 and 5 in PCR No.18/2022 pending consideration before the II Additional Civil Judge (Sr.Dn.) and JMFC, Davanagere for the offences punishable under Sections 494, 495, 496, 498A and 420 read with Section 34 of IPC. The petitioners have challenged the consequent registration of FIR in Cr.No.90/2022 by respondent No.1 for the aforesaid offences.

2. Respondent No.2 filed a private complaint under Section 200 of Cr.P.C. alleging that his daughter was given in marriage to accused No.1 on 27.04.2009. That after his daughter gave birth to twin daughters, they came to know that accused No.1 had already married another lady named Smt. Dhanalakshmi which he had not disclosed to respondent No.2 and his daughter. They also came to know about M.C.No.13/2020 filed by accused No.1 against Smt.Dhanalakshmi for dissolution of marriage by mutual consent. Respondent No.2 alleged that accused Nos.1 to 3 were compelling his daughter to part with money to purchase properties in the name of accused No.1 and that out of the



money so received, accused No.1 had purchased a site at Koppal and land in Hunasikatte village of Ranebennur Taluk. He, therefore, alleged that all the accused had a common intention to take his daughter in marriage with accused No.1, suppressing the earlier subsisting marriage, which constituted an offence punishable under Sections 494, 495, 496 and 420 read with Section 34 of the Indian Penal Code and therefore, prayed that cognizance be taken of the commission of the aforesaid offences.

3. The trial Court referred the case under Section 156 (3) of Cr.P.C. for investigation and for report, based upon which, respondent No.1 noticing that cognizable offence is made out, registered Cr.No.90/2022 for the aforesaid offences and took up investigation. The petitioners are, therefore, before this Court challenging the registration of FIR as well as the proceedings initiated against them.

4. Learned counsel for the petitioners submitted that a perusal of the entire complaint would go to show that at the most, the offences under Sections 494, 495 and 496 of IPC are made out only against accused No.1 and not against the other



accused. He submits that the allegation, in so far as Section 498A of Cr.P.C. is concerned, is that accused No.1 had obtained money from respondent No.2 for the purpose of purchase of site. He contended that the site at Koppal and the land at Hunasekatte were purchased out of funds of accused No.1 and that he had not received any money from respondent No.2. He further submits that respondent No.2 and his daughter were aware of the marital status of accused No.1 even before the marriage and that it was only upon the advise of respondent No.2, that M.C.No.13/2020 was filed for dissolution of marriage by mutual consent. He also contended that the "person aggrieved" to complain about the commission of offences under Sections 494, 495 and 496 of IPC is not respondent No.2, but it is the wife of accused No.1 and since she has not complained, the trial Court committed an error in blindly referring the case for investigation. He also submits that the private complaint filed by respondent No.2 and the consequent FIR drawn is an abuse of process of law and therefore, prays that the proceedings be halted.

5. *Per contra*, learned counsel for respondent No.2 submitted that the word "aggrieved person" in the context of



an offence under Section 494 of IPC is lucidly described by the Hon'ble Apex Court in the case of **A.SUBASH BABU VS. STATE OF ANDHRA PRADESH AND ANOTHER [(2011) 7 SCC 616]** to include not only the affected spouse but also her parents/siblings. He invited the attention of this Court of paragraph 22 and contended that respondent No.2 being the father-in-law of accused No.1 was entitled to set the law into motion, complaining the commission of offences under Sections 494, 495 and 496 of IPC. He also submitted that since accused No.1 did not disclose his marital status, an offence under Section 420 of IPC was also made out. He further submitted that since all the accused have joined hands in suppressing the material fact, that accused No.1 was married prior to the marriage with the daughter of respondent No.2, all of them have to be prosecuted under Section 34 of IPC. He also contended that respondent No.1 has only registered an FIR and he is yet to undertake investigation and therefore prayed this Court not exercise jurisdiction under Section 482 of Cr.P.C. even before initial investigation is done.



6. I have considered the submissions made by the learned counsel for the petitioners as well as the learned counsel for respondent No.2.

7. The fact that accused No.1 had filed M.C.No.13/2020 to dissolve his marriage with a lady named Dhanalakshmi makes it more than evident that by the time accused No.1 had married the daughter of respondent No.2 on 27.04.2009, he had married Dhanalakshmi and therefore, *prima facie* indicates the commission of offences punishable under Sections 494, 495 and 496 of IPC.

8. The question whether accused No.1 had disclosed his marital status to respondent No.2 and his daughter before the marriage, is a fact that has to be established by accused No.1 before the trial Court.

9. A perusal of Sections 494, 495 and 496 of IPC makes it clear that those offences can be pursued by a spouse against an erring spouse and the other members of the family or members of the extended family cannot be prosecuted for the offences punishable under Sections 494, 495 or 496 of IPC. Therefore, pursuing the case against the other accused for the





offences punishable under Sections 494, 495 and 496 of IPC is unwarranted. In so far as the offences punishable under Sections 498A and 420 read with Section 34 of IPC, except the assertion in the private complaint that accused Nos.2 and 3 had compelled respondent No.2 to part with money to purchase properties in the name of accused No.1, there is no clear evidence and therefore, it is improper at this stage to involve the said accused in the investigation. However, in the event of a charge sheet being filed against accused No.1 and in the event of affirmative evidence being led in before the trial Court about the involvement of the other accused for the offences punishable under Sections 498A and 420 or Section 34 of IPC, liberty deserves to be reserved in favour of the prosecution to prosecute the other accused by making appropriate application under Section 319 of Cr.P.C. In that view of the matter, the investigation launched against accused Nos.2, 3, 4 and 5 deserves to be halted for the present.

10. Consequently, Crl.P.No.7931/2022 is allowed-in-part and the investigation undertaken shall be restricted to accused No.1. Similarly, Crl.P.No.7825/2022 is also allowed for the present.



**NC: 2023:KHC:37343**  
**CRL.P No. 7931 of 2022**  
**C/W CRL.P No. 7825 of 2022**

It is needless to mention that in the event of a charge sheet being filed against accused No.1 and in the event of prosecution leading affirmative evidence about the involvement of the other accused, liberty is reserved to the prosecution to file appropriate application under Section 319 of Cr.P.C. to arraign the other accused for the offences punishable under Sections 420 and 498A read with Section 34 of IPC.

**Sd/-**  
**JUDGE**

VM  
List No.: 1 Sl No.: 21