

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO.1299 OF 2015

BETWEEN:

SMT SUPRAJA CHANDRA
D/O MR C V RAMANA REDDY
AGED 34 YEARS
RESIDENCE C/O No.21/2,
1ST FLOOR, 1ST MAIN,
GANDHINAGAR
BANGALORE – 560 009

...PETITIONER

(BY SMT.ANANYA KRISHNA FOR
SRI. DHANANJAY K V, ADVOCATES)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY THE
STATION HOUSE OFFICER
CYBER CRIME POLICE
OFFICE OF THE C I D
PALACE ROAD
BANGALORE – 560 001
2. SRI V VENKATA KRISHNA REDDY
S/O MR YANADHI REDDY
MAJOR IN AGE
RESIDENT OF NO.36944
BLANCHARD BLVD
APT NO.303, FARMINGTON
MICHIGAN 48335 U S A

Digitally
signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA

ADDRESS IN INDIA
NO.3/271, SURENDRA NAGAR
OPP. B V R COLLEGE BADVEL
KADAPA DISTRICT

ANDHRA PRADESH – 516 227

...RESPONDENTS

(BY SRI P.V.L.BHANU PRAKASH, SPL. PP., FOR R1;
SRI PANKAJ MEHTA, ADVOCATE FOR R2)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE ORDER DATED 07.10.2015 PASSED BY THE I A.C.M.M., BANGALORE IN C.C.No.7102/2014 REFUSING TO DISCHARGE THIS PETITIONER/ACCUSED ON GROUND OF PERVERSION AND FAILURE OF JUSTICE AND TO DISCHARGE THIS PETITIONER/ACCUSED FROM THE AFORESAID PROCEEDING AND TO ALSO SET ASIDE THE ORDER DATED 07.10.2015 ALLOWING AN APPLICATION BY THE COMPLAINANT FILED UNDER SECTION 216 OF THE CODE.

THIS PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

CAV ORDER

Present revision petition is filed by the accused in Criminal Case No. 7102/2014, before the First Additional Chief Metropolitan Magistrate, Bengaluru, with the following prayer:

"Wherefore, under the facts and circumstances of the aforesaid case, the petitioner most respectfully prays that this Hon'ble court may, in exercise of its statutory power under Section 397 of the Criminal Procedure Code, 1973, read with Section 401 thereof graciously be pleased to:

- a) Call for the record in Criminal Case No.7102 of 2014 pending on the file of the First Additional Chief Metropolitan Magistrate, Bangalore for the purpose of*

satisfying that the Order passed therein on 07-Oct-2015 allowing an application by the complainant under Section 216 of the Code and another Order passed on 07-Oct-2015 disallowing the discharge application filed by the petitioner-accused are a grave breach of the established law and criminal procedure and that, continuation of the proceeding thereby would lead to an abuse of the process of the court besides leading to a grave failure and miscarriage of justice;

b) to set aside the Order dated 07-Oct-2015 passed by the First Additional Chief Metropolitan Magistrate in Criminal Case No.7102/2014 refusing to discharge this petitioner-accused on ground of perversion and failure of justice and to discharge this petitioner-accused from the aforesaid proceeding and to also set aside the Order dated 07-Oct-2015 allowing an application by the complainant filed under Section 216 of the Code."

2. Shorn of unnecessary details, the factual matrix for disposal of the present petition are as under:

2.1. Petitioner is the wife of the complainant. Their marriage took place on 30.12.2010 at Kadapa District. They could however lead the married life only for a period of 17 days. On account of total incompatibility and marriage is irretrievably breakdown.

3. When the matter stood thus, the petitioner herein sent an email to her husband about the pains, distress and suffering in that 17 days. Husband left to United States of America on 18th day of their marriage. Husband however, filed a complaint to the police on noting the objectionable contents of the email on 30.11.2011 at Rajajinagar police station. He had also authorized Mr. Manjunath and Sri P.V.L. Bhanu Prakash, Advocates to appear on his behalf.

4. Police after conducting detailed investigation, filed 'B' report to the jurisdictional Court.

5. Notice of 'B' report was issued to the husband and a petition came to be filed by him.

6. Learned Trial Magistrate upon hearing the counsel for informant, rejected the closure report and directed that matter be referred to investigation by Cyber Police, Criminal Investigation Department (hereinafter referred to as 'CID') Office for proper investigation. Thereafter, cyber wing of CID investigated the matter and during such investigation, repeatedly petitioner was summoned and questioned and her employer as well.

7. Against such action, a criminal petition No.5667/2013 was filed under Section 482 of Code of Criminal

Procedure (hereinafter referred to as 'Cr.P.C.) and an interim order came to be passed. Finally, the matter was disposed of on 06.01.2014 by issuing directions as under:

"Under the impugned Order dated 17.06.2013, the Trial Court refused to accept the B-Report and rejected the same. Further, the Trial Court referred the case to the Cyber Crime Police Station, C.I.D. Office, Bangalore for investigation and Report under Sec. 156(3), Cr.P.C., the concerned police have to register the crime number and take up investigation. Even in the absence of specific words in the impugned order, it is obligatory on the part of the Cyber Crime Police Station, C.I.D. Office, Bangalore to register a case, investigate the matter and report to the jurisdictional Magistrate. With the above clarification, the Petition is hereby disposed off."

8. Thereafter, CID further investigated the matter by registering a fresh case in Crime No.2/2014. Later on, a final report came to be filed against the petitioner by the CID police alleging the commission of the offence under Section 66A of Information and Technology Act (hereinafter referred to as 'IT Act') and Section 201, 203 and 417 of Indian Penal Code (hereinafter referred to as 'IPC').

9. First Additional Chief Metropolitan Magistrate, Bengaluru took cognizance of the offences against the

petitioner in the charge sheet and summoned the petitioner to stand for the trial.

10. Petitioner thereafter filed an application to discharge her from the charges under Section 239 of Code of Criminal Procedure.

11. When the same was under consideration, a petition under Section 226 and 227 of Constitution of India and Section 482 of Cr.P.C., was filed, stating that offence under Section 66A of IT Act is struck down by the Hon'ble Supreme Court in the case of ***Shreya Singhal vs. Union of India*** reported in **(2013) 12 SCC 73**, decided on 24.03.2015 and therefore, the charge against the petitioner under Section 66A of the IT Act needs to be set aside and so also offence under Sections 201 and 203 of IPC as they are ancillary to Section 66A of IT Act.

12. When the said petition was pending, husband filed an application before the learned Trial Magistrate seeking the relief of framing of charges under Section 191, 200, 204, 416, 419 and 503 of IPC. Pertinently, till then no charges were framed and therefore, the petitioner pursued the criminal petition before this Court.

13. Learned Judge in the Co-ordinate Bench of this Court disposed of the said petition by observing as under:

"The case pending in the court below is at a preliminary stage. The accused/petitioner has filed application under Section 239 Cr.P.C seeking discharge. The 2nd respondent/defacto complainant has filed an application under Section 216 Cr.P.C to frame charge under Sections 191, 200, 204, 416, 419 and 503 IPC. Both the said applications are pending consideration.

Apex Court, by an order dated 24.03.2015, passed in WP (Criminal) No.167/2012 and connected cases, struck down Section 66-A of Information Technology Act, 2000, in it's entirely, as being violative of Article 19(1)(a) and not saved under Article 19(2) of the Constitution of India. Hence, there cannot be any prosecution of the petitioner for the offence under Section 66-A of the Information Technology Act, 2000.

Since the aforesaid applications are pending consideration by the learned Magistrate, this petition is disposed of directing that the said applications be decided with expedition and within a period of six weeks from the date a copy of this order is placed on record of the learned Magistrate."

Contentions of both sides are left open."

14. Since there was an application filed under Section 216 to frame charge under Sections 191, 200, 204, 416, 419 and 503 of IPC seeking to frame the additional charges, same was opposed by the petitioner.

15. Despite such objections, learned Trial Magistrate allowed the application in Criminal Case No.7102/2014 by

Order dated 07.10.2015 and the application filed under Section 239 of Cr.P.C., seeking to discharge the petitioner from offences came to be dismissed.

16. Being aggrieved by both the orders, present revision petition came to be filed.

17. Learned Counsel for the petitioner Sri Dhananjaya K.V, reiterating the grounds urged in the revision petition would contend that when the Hon'ble Supreme Court has struck down the provisions under Section 66A of IT Act in the case of ***Shreya Singhal*** Supra, the learned Trial Magistrate ought to have discharged the petitioner for the offence under Section 66A of IT Act and under Sections 201 and 203 of IPC, being the ancillary offences of Section 66A of IT Act.

18. He would further contend that there is no material on record to frame the charges as is sought for under Section 216 of Cr.P.C., inasmuch the Investigation Agency did not invoke the offence under Section 191, 200, 204, 416, 419 and 503 of IPC.

19. It is also submitted by Sri Dhananjay that when there is no charge framed, question of altering, modification or adding additional charges would not arise that too only on the

request of the defacto complainant. Therefore, needs to be allowed in *toto*.

20. Per contra, Sri Bhanuprakash P.V.L., learned counsel for the respondent supports the impugned order.

21. He would further contend that an order passed by the Superior Court subsequent to filing of the charge sheet, would not efface criminality committed by a person when the statute was in force. Therefore, the decisions of the Hon'ble Apex Court in the case of ***Shreya Singhal*** supra will have no bearing in the case on hand and thus, sought for dismissal of the petition.

22. He would further contend that Section 216 of Cr.P.C., to contemplate a situation at any time before judgment, Court has power to alter or add any other charge and therefore, the grounds urged on behalf of the petitioner that even before the charges would be framed allowing the application under Section 216 of Cr.P.C., has resulted in miscarriage of justice cannot be countenanced in law. Thus, sought for dismissal of the revision petition.

23. Having heard the arguments of both sides, this Court perused the material on record meticulously.

24. On such perusal of the material on record, it is not in dispute that petitioner and the second respondent got married each other on 30.12.2010. They could however lead the married life only for a period of 17 days as admitted by the parties. Respondent No.2 is now residing in United State of America is not in dispute. Further, an e-mail being sent by the wife – revision petitioner to the husband – respondent No.2 is not in dispute.

25. In respect of the said e-mail, initially a complaint came to be filed which ended in filing of 'B' final report.

26. Later on, the learned Trial Magistrate rejected the said report after hearing the counsel for the husband and directed that the matter be registered by the cyber crime police and investigated. Accordingly, a fresh crime in No.2/2014 came to be registered by CID police and investigated the matter and charge sheet came to be filed alleging the commission of the offence punishable under Section 66A of IT Act and under Sections 201, 203 and Section 417 of IPC.

27. Learned Trial Magistrate took cognizance of the aforesaid offences and summoned the petitioner. Later on, an application came to be filed by the revision petitioner seeking discharge of the petitioner from the aforesaid offences.

28. It is at that juncture, after noting the contents of the application seeking discharge of the application under Section 216 of Cr.P.C., filed by Special Public Prosecutor, learned Trial Judge passed the impugned order.

29. Against order of dismissal, the application seeking discharge of the petitioner from the charges and also allowing the application under Section 216 of Cr.P.C., present revision petition came to be filed.

30. During the course of hearing, learned counsel for the petitioner was confronted with a situation as to, how he could maintain a single revision petition in respect of two different orders.

31. In that regard a memo came to be filed whereby the revision petitioner is now restricted only with regard to the rejection of the application filed seeking discharge of the petitioner for the offences punishable under Section 66A of IT Act and under Sections 201, 203 and 417 of IPC.

32. Though the grounds urged in the petition and with regard to the prayer for setting aside the order of allowing the application under Section 216 of Cr.P.C., in view of the memo, this Court has now considered the case of the petitioner only

with regard to her prayer for allowing the application seeking discharge for the aforesaid offences.

33. Admittedly, Hon'ble Apex Court in the case of ***Shreya Singhal*** supra has held that Section 66A of IT Act is unconstitutional.

34. In the decisions relied on by the petitioner referred to supra, especially in view of the authoritative pronouncement of the Hon'ble Apex Court in the case of ***Peoples' Union for Civil Liberties vs. Union of India and others*** in **M.A.No.3220/2018 in WP (CrI.) No.199/2013**, wherein, the Hon'ble Apex Court has issued following directions:

"(a) xxxx

(b) In all those case where alleged violation of Section 66A of the 2000 Act has been projected and citizens are facing prosecution for such alleged violation, the reference to Section 66A of the 2000 Act from all these crimes or criminal proceedings shall stand deleted."

35. As such, the charge against the petitioner under Section 66A of IT Act would not survive for consideration.

36. As could be seen from the charge sheet materials, offence under Section 201 and 203 IPC is ancillary to the offence under Section 66A of IT Act.

37. Since, the prosecution of the petitioner under Section 66A of IT Act impermissible in view of the directions issued by the Hon'ble Apex Court in ***Peoples' Union for Civil Liberty*** supra, which is a clarificatory order and in continuation of the directions issued by the Hon'ble Apex Court in ***Shreya Singhal*** supra, charges against the petitioner for the offences under Section 201 and Section 203 of IPC would also not survive for consideration.

38. To attract the offence under Section 417 of IPC, no independent material is forthcoming on record whereby petitioner could be charged that knowingly she deceived the complainant and there was a dishonest inducement causing damage or harm to the complainant.

39. It is to be noted that ingredients of Section 417 and 420 IPC are distinct and mutually exclusive therefore, charge under Section 417 IPC also needs to be set aside.

40. Thus, dismissal of the application filed by the petitioner against the order dismissing her request to discharge

her from the aforesaid charges need to be set aside by exercising the powers of the revisional jurisdiction.

41. Insofar as allowing the application under Section 216 of Cr.P.C., whereby the learned Trial Magistrate has decided to frame charges for the additional offences which were not found in the charge sheet, in view of the memo filed by the petitioner on 17.03.2026, no order needs to be passed in this case.

42. Thus, in view of the foregoing discussion following order is passed:

ORDER

- (i) Revision petition is ***allowed***.
- (ii) Consequently, application filed by the petitioner under Section 239 of Cr.P.C., seeking her discharge for the offences under Section 66A of IT Act and Sections 201, 203 and 417 of IPC is hereby allowed.

Ordered accordingly.

**Sd/-
(V SRISHANANDA)
JUDGE**

MR