



CNR: KAHC010566052019

NC: 2026:KHC:51013
CRL.P No. 8743 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.8743 OF 2019

BETWEEN:

K N MADHUSUDAN
S/O LATE NARAYANSA
AGED ABOUT 57 YEARS
R/AT NO.72/1-5
CUNNINGHAM ROAD
BANGALORE-560052

...PETITIONER

(BY SRI. AMITH DESHPANDE, ADVOCATE FOR
SRI MOHAN KUMAR M, ADVOCATE)

AND:

MS. SHAMALA MADHUSUDAN
AGED ABOUT 52 YEARS
R/AT 19/4, I MAIN
JAYAMAHAL EXTENSION
BANGALORE-560004

...RESPONDENT

(BY SRI G R MOHAN, ADVOCATE)

THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO QUASH
THE ORDER DATED 18.02.2014 IN SO FAR AS DIRECTING
REGISTRATION OF CRL.CASE AS AGAINST ACCUSED NO.1
ONLY BY THE LEARNED VIII A.C.M.M., AT BENGALURU IN PCR
NO.12775/2012 NOW C.C.NO.9017/2014 VIDE ANNEUXRE-A
AND ETC.

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel appearing for the respective parties.

2. This petition is filed praying this Court to quash the order dated 18.02.2014 passed in C.C.No.9017/2014 arising out of PCR No.12775/2012 by the VIII ACMM, Bengaluru.

3. The factual matrix of case of the complainant/respondent before the Trial Court when the private complainant is filed invoking Section 200 of Cr.P.C is that during the subsistence of marriage of the complainant with the petitioner/accused No.1, this petitioner got married with accused No.2 and the same is a illegal wedlock and accused No.2 had also given birth to a child by name Yohansa out of the illegal wedlock with accused No.1. Copy of the birth certificate is also produced as Document No.7 and the same is specifically pleaded in paragraph No.10 of the complaint.



4. The Trial Court also while taking the cognizance though private complaint is filed against accused Nos.1 to 10 for the offences punishable under Sections 494, 495, 496, read with Section 420 of IPC, recorded the sworn statement and considering the documents of Ex.P1 to 9. The allegation is that complainant is the legally wedded wife of accused No.1. Even though accused No.1 illegally married with accused No.2, from their wedlock, a male child Yohansa was born. It is further alleged that accused No.1 colluding with accused Nos.3 to 10 is not paying monthly maintenance to the complainant and her children. The sworn statement taken note of by the Trial Court and comes to the conclusion that the same prima facie revealed that complainant is the wife of the accused No.1 and even though accused No.1 married accused No.2 during subsistence of first marriage, but the complainant has not made out a case against accused Nos.2 to 10 and hence, comes to the conclusion that the complainant has made out a prima facie case to proceed against the accused No.1 for the offence punishable under Section 494 of IPC and issued the summons



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against accused No.1. The same is challenged before this Court by filing this petition.

5. The main contention of the counsel appearing for the petitioner before this Court is that the course adopted by the Learned Magistrate in directing for registration of criminal cases and issuing summons is in violation of Section 204 of Cr.P.C. It is also contended that without taking cognizance of the alleged offences, the Learned 8th ACMM has proceeded on a wrong footing for having issued summons to the accused. The counsel would contend that taking up cognizance of the offence punishable under Section 494 of IPC is without any application of mind and the order is arbitrary and illegal. It is also contended that in the impugned order, it is stated that accused No.1 has married accused No.2 during the subsistence of his first marriage. The fact is factually incorrect inasmuch as the marriage of accused Nos.1 and 2 was solemnized on 30.09.2015 and not on the date when the impugned order is passed i.e., on 18.02.2014. The counsel also would vehemently contend that the very reasoning given by the trial Court is erroneous. The counsel also would vehemently contend that not



specifically mentioned the date of marriage and sworn statement recorded on 07.11.2012. The counsel would vehemently contend that recitals of Annexure-C clearly goes to show that accused Nos.1 and 2 had married on 30.09.2015 as against the allegation made in the complaint on 24.07.2012. In other words, as on 24.07.2012 the complaint was presented and as on 18.02.2014 when the impugned order was passed, there was no marriage whatsoever as alleged.

6. The counsel in support of his arguments, relies upon the judgment passed by this Court in **MFA No.7484/2015** dated **30.07.2026** and would vehemently contend that when the appeal was filed by the complainant, the same was dismissed and confirmed the judgment and decree of divorce dated 29.08.2015 passed by the 4th Additional Principal Judge, Family Court at Bangalore. The counsel also vehemently contend that the marriage of accused Nos.1 and 2 was subsequent to the granting of divorce and hence, question of invoking Section 494 of IPC does not arise.

7. The counsel, in support of his argument, relies upon the judgment of High Court of Kerala passed in **CrI. MC**



No.2077/2017 dated **10.08.2021** and brought to notice of this Court to the discussion made in paragraph 6 with regard to invoking of the offence under Section 494 of IPC wherein referred the judgment in the case of **CHANDRA MOHINI SRIVASTAVA** reported in **LAWS (SC) 1966 1034** and **TEJINDER KAUR vs GURMIT SINGH** reported in **LAWS (SC) 1988 285** must be understood in relation to Section 15 of the Hindu Marriage Act governing validity of the second marriage. The counsel also brought to notice of this Court a detailed discussion was made in the said judgment with regard to Section 494 of IPC becomes inoperative and nonest when there was already a decree of divorce of Family Court and also the same is confirmed.

8. Per contra, the counsel appearing for the respondent would vehemently contend that in the complaint specific allegations are made that marriage was held between the accused Nos.1 and 2 when the marriage of the complainant was subsisting and counsel also brought to notice of this Court the objection statement filed when the IAs are filed before the Court and also brought to notice of this Court the birth



certificate of the son born to the second wife and the same was issued on 23.03.1995 and the child was also born in the hospital i.e., Bangalore Baptist Hospital and mother name is mentioned as Erica. i.e., accused No.2 and father name is mentioned as Madhusudhan K. N, who is the petitioner before this Court. The counsel also would submit that when the petitioner was cross examined in C.C No.14497/2015, he has categorically admitted his son Yohansa and his date of birth is 23.03.1995. This is a admission given before the court on oath and also categorically admitted his marriage with accused No.2. and divorce was given on 29.08.2015. But categorically admitted the mother name Yohansa is Erica i.e. accused No.2 in the complaint and which is subsequently registered after taking of cognizance and hence, the counsel would vehemently contend that it is a matter of trial.

9. In reply to this argument, the counsel for the petitioner would vehemently contend that regarding the marriage is concerned, the same has to be proved that whether ceremonies are held or not and whether it is a legal marriage or



not and whether there is any legal material before the Court with regard to the marriage is concerned or not.

10. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, though it is claimed by the petitioner before this Court that marriage with accused No.2 was solemnized subsequent to the divorce granted by the Trial Court, having perused the documents which have been produced by the counsel appearing for the respondent i.e., birth certificate, discloses that the son Yohansa was born in the year 1995 itself. It is also important to note that the marriage between the petitioner and also the complainant/respondent was held in the year 1988. When the child was born in the year 1995, the very contention of the petitioner that subsequent to the divorce, the marriage was taken place between the petitioner and Erica and the same is a matter of proof. In the proceedings under Section 482 of Cr.P.C the disputed question of fact and question of law even with regard to the validity of the marriage also cannot be considered. The same has to be considered only after conducting the trial. The very contention of the counsel



appearing for the petitioner with regard to the validity of the marriage and so also the specific date of marriage is also not stated has to be proved.

11. It is also important to note that the trial Court while taking the cognizance and while passing an order against this petitioner while invoking Section 494 of IPC taken note of the sworn statement of the complainant and also the documents which have been produced before the Court and applied its judicious mind. When the learned magistrate has applied its judicious mind while taking the cognizance, considering the contents of the complaint and specifically stated that while issuing the summons, the contents of the complaint and sworn statement clearly discloses that there is a prima facie case to proceed against accused No.1 is concerned. Hence, I do not find any error on the part of the trial Court in issuing the summons to accused No.1. Hence, the very contention of the counsel appearing before the petitioner that the learned judge has committed an error in issuing the summons cannot be accepted. The grounds which have been urged before this Court with regard to the marriage is concerned the same was



performed subsequent to the order of divorce is a question of fact to be proved before the Trial Court. The counsel would contend that the said order of divorce is confirmed by this Court and no dispute to that effect.

12. The counsel appearing for the respondent would submit that the very order passed by this Court dated 30.07.2026 is challenged before the Apex Court. The same is not the material to consider before this Court and the same has to be considered only if it is subsequent to the date of divorce. Whether there was a marriage earlier to the divorce or subsequent to the divorce, is a issue to be tried before the trial Court by appreciating the same and not at the time of considering the petition under Section 482 of Cr.P.C. The scope of 482 is very limited. Only the question made before this Court is taking of cognizance and this Court already comes to the conclusion that the Learned Magistrate while issuing the summons in respect of the offence under Section 494 is concerned, applied his judicious mind and also taken note of the contents of the complaint and also the sworn statement and also the documents which have been produced before the



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Court. Hence, this Court cannot find fault with the order of the Trial Court.

13. In view of the discussions made above, I pass the following:

ORDER

The petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

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