IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

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BEFORE

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

CRIMINAL PETITION NO.7817 OF 2021

BETWEEN:

1. SRI. N. ANANDAKUMAR @ KEMPEGOWDA,
S/O NEELEGOWDA,
AGED ABOUT 34 YEARS.

2. SMT. SAVITHRAMMA,
W/O NEELEGOWDA,
AGED ABOUT 54 YEARS.

3. SRI. NEELEGOWDA,
S/O LATE KEMPEGOWDA,
AGED ABOUT 64 YEARS.

PETITIONERS NO.2 AND 3 ARE
RESIDENTS OF
DODDABYADARAHALLI VILLAGE,
PANDAVAPURA TALUK-571 434.

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Location: HIGH COURT OF KARNATAKA

4. SMT. GEETHA,
D/O LATE KEMPEGOWDA,
AGED ABOUT 36 YEARS,
RESIDENT OF
MADEGOWDANAKOPPALU VILLAGE,
DUDDA HOBLI,
MANDYA TALUK AND DISTRICT-571 405.

...PETITIONERS

(BY SRI. RAMAKRISHNA HEGDE, ADVOCATE)

AND:

1. SMT. SHYLAJA,
W/O SWAMYGOWDA,
AGED ABOUT 44 YEARS,

NO.248, 'B' BLOCK,
MAHATHMA GANDHI NAGAR,
PANDAVAPURA TOWN-571434.

…RESPONDENT

(BY SRI. G.B. SHARATH GOWDA, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ORDER DATED 18.02.2019 IN PCR NO.148/2017 LATER NUMBERED AS C.C.NO.177/2019 PASSED BY THE CIVIL JUDGE AND JMFC PANDAVAPURA REGISTERING THE CRIMINAL CASE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 304-B R/W SECTION 34 OF IPC (ANNEXURE-G).

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.11.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. The prayer sought in the petition is to quash the order passed by the Trial Court dated 18.02.2019 in PCR No.148/2017 later numbered as C.C.No.177/2019, for the offences punishable under Sections 302, 304B read with Section 34 of IPC.

3. The factual matrix of the case of the complainant is that when the police investigated the matter and filed the

charge-sheet against the accused, the complainant knocked the door of the Court by filing a private complaint that the very investigation done by the police is defective and fails to consider the material on record on the ground that the death was taken place within six months of the marriage and did not invoke Section 304B of IPC. The post mortem report Ex.C.29 and Ex.C.10 is very clear that there were external injuries and hence, it requires consideration of private complaint to invoke the offences under Sections 302 and 304B of IPC, since the police have only invoked the offence under Section 498A of IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act. The Trial Court considered the evidence of CW1 to CW3 i.e., the complainant, doctor and one of the witness and also considered the documents at Exs.C1 to C43. The Trial Court also taken note of that the offences invoked are only under Section 498A of IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act. The Trial Court also taken note of entire investigation material and allegations made in the FIR in paragraph No.27 and reasons assigned that the deceased Shalini @ Lavanya was suffering from epileptics disease before her death, but the Investigating Officer has not collected any such material to come to such a conclusion. The Trial Court in paragraph No.28

comes to the conclusion that post mortem report Ex.C.29 discloses that at the portion of the stomach which are, mucosa stone small, peripheral hemorrhage, superficial erosion present and shows superficial erosion contains semi-digested particles and also taken note of external injuries found on the deceased and death of deceased Shalini @ Lavanya is due to cardio respiration failure as a result of status of epileptics. The Trial Court in paragraph No.32 considered the evidence of CW2 doctor. The doctor deposes that on perusal of the inquest report at Ex.C.10 and post mortem report Ex.C.29, it clearly discloses that there were external injuries on the body of the deceased Shalini @ Lavanya. In the entire investigation materials there is no any clear evidence that, under what circumstances the deceased Shalini @ Lavanya had sustained external injuries as per Ex.C.10 and Ex.C.29 and comes to the conclusion that it is a fit case to invoke Sections 302 and 304B of IPC since death was taken place within six months of the marriage and the same is observed in paragraph No.35. The said order is challenged before this Court.

4. The main contention of the learned counsel for the petitioners before this Court is that the Investigating Officer invoked Section 498A read with Section 34 of IPC and Sections

3, 4 and 6 of DP Act and the Trial Court took the cognizance based on the same. The learned counsel would vehemently contend that the Trial Court committed an error in entertaining the private complaint. The Trial Court fails to take note of that the complainant/respondent could have prosecuted the petitioners on the same ground in the police report filed by the police and there cannot be any separate proceedings.

5. The learned counsel for the petitioners in support of his argument relied upon the judgment of the Apex Court in the case of **KRISHNA LAL CHAWLA AND OTHERS v. STATE OF U.P. AND ANOTHER** passed in Criminal Appeal No.283/2021 and brought to the notice of this Court paragraph No.3.6, wherein issuance of process was discussed with regard to the filing of vexatious private complaint. An observation is made that it is nobody's case that the offence under Section 506(II) has been taken place, which means that the Courts took extra interest to improve the case of the respondent/complainant. In paragraph No.13 discussed with regard to the judgment in the case of **PEPSI FOODS LTD. v. SPECIAL JUDICIAL MAGISTRATE** reported in **(1998) 5 SCC 749** and held that power to issue a summoning order is a matter of grave importance, and that the Magistrate must only allow criminal

law to take its course after satisfying himself that there is a real case to be made. The learned counsel would contend that the Magistrate without satisfying, issued the process.

6. The learned counsel also relies upon the judgment of the Apex Court in the case of **SUBRATA CHOUDHURY @ SANTOSH CHOUDHURY AND OTHERS v. THE STATE OF ASSAM AND ANOTHER** passed in SLP (Crl.) No.1242/2021 and brought to the notice of this Court the discussion made with regard to where a second complaint or a second protest petition would not be maintainable and would contend that there cannot be any second complaint. The learned counsel would contend that both the complaints were identical. The finding of the High Court that the second complaint was maintainable was rejected and the subject complaint was dismissed as not being maintainable.

7. The learned counsel also relies upon the judgment of the Apex Court in the case of **RANIMOL AND OTHERS v. THE STATE OF KERALA AND ANOTHER** reported in **2025 Livelaw (SC) 1148** and brought to the notice of this Court the observation made by the Apex Court that the mere fact that the accused persons named in the first information report are

also arrayed in the second complaint would not make the complaint maintainable. An observation is made that we are dealing with the liberty of a person and, therefore, the question of double jeopardy would arise.

8. Per contra, the learned counsel for the respondent would submit that the Trial Court taken note of the material available on record in order to invoke Sections 302 and 304B of IPC since death was taken place within 7 years and the same is discussed in paragraph No.35. The Trial Court discussed regarding external injuries found on the body of the deceased and there is no explanation in the report filed by the Investigating Officer and there is no bar to entertain a private complaint. But the Court can take note of Section 210 of Cr.P.C. to proceed together in respect of private complaint as well as police report.

9. The learned counsel for the respondent in support of his arguments relies upon the judgment of this Court in the case of **AMASASETTY v. THE STAET OF KARNATAKA AND ANOTHER** passed in Crl.P.No.582/2023 dated 01.02.2023, wherein this Court held that the proceedings in the police case are required to be stayed until the appearance of the accused

in the private complaint in view of Section 210 of Cr.P.C. following which both cases must be tried together and disposed of in accordance with law.

10. The learned counsel also relies upon the judgment of the Apex Court in the case of **SAMAJ PARIVARTAN SAMUDAYA AND OTHERS v. STAET OF KARNATAKA AND OTHERS** reported in **(2012) 7 SCC 407** and brought to the notice of this Court paragraph No.34, wherein the Supreme Court held that where a complaint case and a police investigation concerning the same offence are pending before the Court, the Magistrate shall stay the complaint proceedings and await the police report. Upon receipt of the police report, both cases shall be tried together as if instituted on a police report, ensuring a fair and effective trial and preventing conflicting decisions.

11. The learned counsel also relies upon the judgment of the Apex Court in the case of **KAPIL AGARWAL AND OTHERS v. SANJAY SHARMA AND OTHERS** reported in **(2021) 5 SCC 524** and brought to the notice of this Court paragraph No.16 wherein it is held that under Section 210 of Cr.P.C., when a complaint case is pending and a police

investigation is initiated regarding the same offence, the Magistrate must stay the complaint proceedings and await the police report. If the police report leads to cognizance against the accused already named in the complaint, both cases must be tried together as if they were instituted on a police report. However, if the police report does not concern any accused in the complaint or no cognizance is taken, the Magistrate shall resume the stayed complaint proceedings.

12. The learned counsel also relies upon the judgment of the Apex Court in the case of **H.P. LAKSHMANA v. STATE OF KARNATAKA** reported in **2024 SCC Online Kar 2565** and brought to the notice of this Court paragraph No.8 wherein extracted Section 210 of Cr.P.C. the procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

13. The learned counsel also relied upon the judgment of this Court in the case of **SHIVA M.C. v. K.N. LAKSHMEESHA AND ANOTHER** passed in Crl.P.No.5651/2012 dated 01.03.2013, wherein this Court held that question as to who was guilty of the offences alleged will have to be adjudicated by the Trial Court by merging the case

instituted on police report and also the complaint case in terms of sub-section (2) of Section 210 of Cr.P.C.

14. The learned counsel also relied upon the judgment of the Apex Court in the case of **KAMESH PANJIYAR ALIAS KAMLESH PANJIYAR v. STATE OF BIHAR** reported in **(2005) 2 SCC 388**, wherein discussion was made with regard to Section 304B of IPC and held that the prosecution has to rule out the possibility of a natural or accidental death so as to bring it within purview of death occurring otherwise than in normal circumstances.

15. Having heard the learned counsel for the petitioners and the learned counsel for the respondent and also considering the principles laid down in the judgments referred supra, the points that would arise for the consideration of this Court are:

(i) Whether this Court can exercise the power under Section 482 of Cr.P.C. to quash the proceedings initiated against the petitioners in private complaint in taking cognizance for the offence punishable under Sections 302 and 304B of IPC apart from the offences invoked by the police under Section 498A of IPC and

Sections 3, 4 and 6 of the Dowry Prohibition Act?

(ii) Whether there is any bar to invoke the private complaint after the conclusion of the investigation made by the police?

(iii) Whether the Court can exercise the power under Section 210 of Cr.P.C. to direct the Trial Court to proceed and consider both the matters together?

(iv) What order?

Point Nos.(i) to (iii):

16. Having heard the learned counsel for the respective parties and also considering the material available on record, it is not in dispute that the death was taken place within a period of six months from the date of marriage. The police have registered the case and investigated the matter and filed the charge-sheet only for the offence punishable under Section 498A of IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act, but not filed the charge-sheet for the offence under Sections 302 and 304B of IPC. The fact that death was taken place within six months of the marriage is not in dispute. Hence, there is a presumption under Section 113B of the

Evidence Act and the same is taken note of by the Trial Court while passing an order. The Investigating Officer failed to take note of the same. The Trial Court while invoking the offence under Section 302 of IPC, taken note of the documents Ex.C.10 and Ex.C.29, i.e., inquest report as well as post mortem report and so also considered the evidence of the doctor who has been examined as CW2 in paragraph No.32 and also the external injuries found on the body of the deceased. There is no explanation in the report filed by the Investigating Officer to that effect except mentioning the cause of death on account of epileptics and the same is also discussed in paragraph No.33.

17. Though the learned counsel for the petitioners submits that he is going to file the documents with regard to the deceased was suffering from epilepsy, but not produced the same. An observation is made by the Trial Court also that she was suffering from epilepsy. The Trial Court also observed in paragraph No.33 that the Investigating Officer has not collected any evidence to show that the deceased Shalini @ Lavanya was suffering from epilepsy disease. The Trial Court having taken note of that there were external injuries on the body of the deceased as per Ex.C.10 and Ex.C.29, rightly applied its mind while invoking Section 302 of IPC. When such being the case,

regarding invoking of Sections 302 and 304B of IPC is concerned, there are materials. The Trial Court also made an observation to that effect. But the learned counsel for the petitioners would vehemently contend that Section 200 of Cr.P.C. cannot be invoked when the police have already filed the report and private complaint cannot be entertained after the conclusion of the investigation made by the police and ought to have filed the application in the very same case. The said contention cannot be accepted.

18. This Court would like to rely upon the judgment of the Apex Court in the case of **PAL ALIAS PALLA v. STATE OF UTTAR PRADESH** reported in **(2010) 10 SCC 123**, wherein the Apex Court discussed the provisions of sub-clause (2) and (3) of Section 210 of Cr.P.C., Section 300 of Cr.P.C. as well as Article 20(2) of the Constitution of India. The Apex Court held that the Trial Court shall proceed to hear two cases simultaneously, but separately, and dispose of the same simultaneously. Section 210 of Cr.P.C. provides the procedure to be followed when there is a complaint case and police investigation in respect of the same offence. Sub-section (2) of Section 210 provides that if a report is made by the Investigating Officer under Section 173 and on such report

cognizance of any offence is taken by the Magistrate against any person, who is an accused in a complaint case, the Magistrate shall inquire into or try two cases together, as if both the cases had been instituted on a police report. Sub-section (3) provides that if the police report does not relate to any accused in the complaint case, or if the Magistrate does not take cognizance of any offence on a police report, he shall proceed with the inquiry or trial which was stayed by him. Although it will appear from the above that under Section 210 of Cr.P.C., the Magistrate may try the two cases arising out of a police report and a private complaint together, the same, in our view, contemplates a situation where having taken cognizance of an offence in respect of an accused in a complaint case, in a separate police investigation such a person is again made an accused, then the Magistrate may inquire into or try together the complaint case and the case arising out of the police report and if both the cases were instituted on a police report. Hence, there is no any bar to consider the private complaint. The Apex Court also referred the judgment in the case of **HARJINDER SINGH v. STATE OF PUNJAB** reported in **(1985) 1 SCC 422** wherein also discussion was made with regard to Article 20(2) of the Constitution of India and also Section 300 of Cr.P.C.

19. The judgment relied upon by the learned counsel for the petitioners in the case of **Krishna Lal Chawlab** (supra) does not come to the aid of the petitioners as the same is in respect of filing of police report and taking of cognizance and also filing the proceedings under Section 200 of Cr.P.C. and particularly in paragraph No.11 discussed the role of the lower judiciary in preventing abuse of court process. The judgments in the case of **Subrata Choudhury** (supra) and **Ranimol** (supra) also will not come to the aid of the petitioners when there are two complaints. But in the case on hand, it is not the question of second complaint. When the police failed to investigate the matter in a proper perspective without invoking the offence under Sections 304B as well as 302 of IPC, private complaint is filed and the same will not deal with the liberty of person and the question of double jeopardy would not arise. With regard to the lapses on the part of the investigation only private complaint is filed. Trial Court considered the material on record, particularly inquest report as well as the post mortem report, wherein found external injuries and nothing is found in the investigation made by the police with regard to the same.

20. The learned counsel for the respondent relied upon the judgments in the case of **Amasasetty, Samaj**

Parivarthan Samudaya and **Kapil Agarwal** (supra), wherein discussion was made with regard to Section 210 of Cr.P.C. When a complaint case is pending and a police investigation is initiated regarding the same offence, the Magistrate must stay the complaint proceedings and await the police report. If the police report leads to cognizance against an accused already named in the complaint, both cases must be tried together as if they were instituted on a police report. The other judgments relied upon by the learned counsel for the respondent in the cases of **H.P. Lakshmana, Shiva M.C.** and **Kamesh Panjiyar** (supra) is in respect of Section 210 of Cr.P.C. as well as necessity of insertion of Section 304B of IPC and Section 113B of the Evidence Act. The prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of death occurring otherwise than in normal circumstances.

21. In the case on hand, the Trial Court has assigned the reasons while passing an order. Under the circumstances, it is a fit case to invoke Section 210 of Cr.P.C. to give directions to the Trial Court to consider the investigation report filed by the Investigating Officer for the offence punishable under Section 498A of IPC and Sections 3, 4 and 6 of the Dowry

Prohibition Act as well as consequent upon the private complaint taking of the cognizance for the offence under Sections 302 and 304B of IPC and send the papers to the Sessions Court. The Sessions Court shall consider both the petitions together for common disposal, since the incident is one and the same and offences are also in respect of the alleged offences. Under the circumstances, it is not a case for invoking Section 482 of Cr.P.C. and there is no bar to invoke the private complaint after the conclusion of the investigation made by the police when there is a clear lapses on the part of the Investigating Officer in investigating the matter. The Court can dispose of the same considering the material on record as observed by the Trial Court while taking the cognizance in a private complaint as well as on the police report. Accordingly, I answer point Nos.(i) to (iii).

Point No.(iv):

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

ORDER

(i) The petition is dismissed.

(ii) The learned Magistrate, both who are having private complaint which is numbered as CC for

the offence under Sections 302 and 304B of IPC and also the charge sheet filed for the offence under Sections 498A of IPC and Sections 3, 4 and 6 of DP Act, to send the same to the Sessions Court committing the same to the Sessions Court and the Sessions Court shall consider both the matters and dispose of the same in accordance with law simultaneously.

(iii) The observations made by this Court while considering this matter shall not influence the Trial Court while considering the matter on merits after the trial.

The Registry is directed to communicate this order forthwith to the respective Courts to enable the respective Magistrates to commit the matters to the Sessions Court.

Sd/-
(H.P.SANDESH)
JUDGE

MD