



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 2558 OF 2022

BETWEEN:

SMT. DEEPA KUNJUMMAN @ DEEPA BINU,
D/O KUNJUMMAN JOSEPH,
AGED 39 YEARS,
PERMANENT RESIDENT OF
KOCHAZHIKATHU VEEDU, MATHRA (P.O),
KARVALOOR VILLAGE, PUNALUR TALUK,
KOLLAM – 691 303.

PREVIOUSLY RESIDING AT
NO.1030/B, KACHARAKANAHALLI,
ST.THOMAS TOWN POST,
BENGALURU – 560 084.

PRESENTLY RESIDING AT
SUITE-7630, SEVEN O' CLOCK DRIVE,
PEMBERTON, BC, VON 2L3 – CANADA.

...PETITIONER

(BY SRI. MAHESH S, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY BANASWADI POLICE STATION,
BANGALORE.
REPRESENTED BY
STATE PUBLIC PROSECUTOR,





HIGH COURT OF KARNATAKA,
BANGALORE – 560 001.

2. SMT.SHEEBA M.S.,
AGED ABOUT 45 YEARS,
D/O SELVARANGAM,
GRACE BHAVAN, GANDHINAGAR,
CHEROOR POST, TRICHOOR,
KERALA – 680 008.

NOW RESIDING AT:
NO.30, SLATEY ROAD, PRENTON,
OXTON, CH 434UG,
WIRRAL MERSEYSIDE.

...RESPONDENTS

(BY SRI. MAHESH SHETTY, HCGP FOR R1;
SRI.GOVINDARAJ K JOISA, ADVOCATE FOR R2)

THIS CRL.P. IS FILED U/S.482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONER IN C.C.NO.55077/2018 (PCR NO.51059/2017) INITIATED BY THE I RESPONDENT BANASWADI POLICE STATION FOR THE OFFENCE P/U/S.494, 417, 420 OF IPC PENDING BEFORE THE HONBLE XI ADDITIONAL CMM BENGALURU AGAINST THE PETITIONERS.

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

ORDER

The petitioner is before this Court calling in question the proceedings in C.C.No.55077/2018 registered for the offences punishable under Sections 494, 417 and 420 of IPC.



2. Heard the learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

3. Facts in brief germane are as follows:

The petitioner is the alleged second wife of one Binu Jacob-accused No.1. It transpires that second respondent-complainant is married to one Binu Jacob-accused No.1 on 21.04.2004 and later on the relationship of the second respondent-Complainant with Binu Jacob floundering have initiated certain proceedings. The allegations in the case at hand is that the petitioner marries the husband of the second respondent during the subsistence of marriage with her. It therefore becomes a crime in Crime No.184/2017 for the offences punishable under Sections 494, 495, 420 497 and 417 of the IPC. The police after investigation file a charge sheet against the petitioner along with others and the matters is pending in C.C.NO.55077/2018. Filing of the charge sheet is what drives the petitioner to this Court in the subject petition.

4. Learned counsel for the petitioner would take this Court to the documents appended in the petition seeking to



demonstrate that the petitioner herself was deceived by Binu Jacob, the husband of the second respondent-Complainant, as he had produced the forged copy of an order of the Court depicting divorce with the second respondent and therefore, she had married him. He would submit that the moment the petitioner comes to know of the deceit by Binu Jacob, she applies and secures a divorce from the hands of the competent Court of the marriage with the husband of the second respondent-Binu Jacob. Therefore, he would seek quashing of the proceedings.

5. Learned counsel for the second respondent-Complainant would though seek to refute the submissions would contend that it is her husband who has cheated the petitioner even of marrying her during the subsistence of marriage with the complainant. Therefore, he would leave the decision to the Court.

6. Learned High Court Government Pleader would seek to toe the lines of the learned counsel appearing for the second respondent.



7. I have given my anxious consideration to the submissions made by the respective learned counsels and a perused the material on record.

8. The second respondent-Complainant is wife of one Binu Jacob. Binu Jacob and the second respondent marry in the year 2004 and proceed to United Kingdom for their avocation wherein certain dispute between the second respondent-Complainant and her husband arose. In the interregnum, Binu Jacob comes back to India and then marries the petitioner herein. The marriage happens on the ground that Binu Jacob has divorced the complainant. The divorce is made to believe by production of a order copy of Court of law which depicts that divorce between the complainant and Binu Jacob has happened. It is then the petitioner agrees to marry the husband of the complainant. The marriage with the complainant was still subsisting, as there was no order of Court of law granting divorce of the couple i.e., the complainant and Binu Jacob.

9. The petitioner then comes to know about the falsity of the order and the claim of Binu Jacob that he had divorced



his wife, the complainant herein and then applies for divorce before the competent Court of law at Kerala in O.P.No.105/2019 and concerned Court grants divorce to the petitioner herein of the marriage with Binu Jacob.

10. Therefore, on the aforesaid facts and perusal of the documents, I have no hesitation to hold that the petitioner herself was deceived by Binu Jacob and was lured into marriage with Binu Jacob. On coming to know, the petitioner has retraced her steps and sought divorce. Therefore, the offence under Section 494 can hardly be laid against the petitioner. In the teeth of the aforesaid peculiar facts. If further proceedings are permitted to continue, it would become an abuse of the process of the law and results in miscarriage of justice.

11. For the aforesaid reasons, I pass the following:

ORDER

- i. Criminal petition is allowed.
- ii. The impugned proceedings in C.C.No.55077/2018 on the file of XI Addl,



CMM Court, Mayohall Bengaluru is hereby quashed.

- iii. It is made clear that observations made in the course of this order are only for the purpose of considering the case of the petitioner under Section 482 of the Cr.P.C. This would not bind or influence the proceedings in any other case pending against other accused before any judicial *fora*.

Sd/-
JUDGE

RKA
List No.: 1 SI No.: 1