

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.220 OF 2018

C/W

CRIMINAL PETITION NO.8868 OF 2017

IN CRL.P No.220/2018:

BETWEEN:

SRI. UDAYKIRAN VASIREDDI
S/O SRI. GOPALAKRISHNA
AGED ABOUT 38 YEARS
R/AT NO.204, ASHOKA VIEW
BHAVANI NAGAR, KESHWAPUR
HUBLI-580023

...PETITIONER

(BY SRI. K. DIWAKARA, SENIOR COUNSEL FOR
SRI. HITESH GOWDA &
SRI. ADITYA KASTURKAR, ADVOCATES)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. STATE OF KARNATAKA
BY BANASWADI POLICE STATION
BENGALURU
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560001
2. NEHAREKA V.
AGED ABOUT 7 YEARS
REPRESENTED BY HER GUARDIAN
SMT. DEEPA R
AGED ABOUT 35 YEARS
W/O SRI. UDAYKIRAN VASIREDDI

BOTH ARE R/AT NO.653/1

5TH CROSS, II BLOCK, BSK 1ST STAGE
BENGALURU-560050

...RESPONDENTS

(BY SRI. M. DIVAKAR MADDUR, HCGP FOR R1;
SMT/KUM. RENY SEBASTIN, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN SPL.C.C.NO.559/2017 ON THE FILE OF LIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU FOR THE OFFENCE PUNISHABLE UNDER SECTION 354A(1) OF IPC AND SECTIONS 7, 11(ii) OF PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT AND ETC.

IN CRL.P NO.8868/2017:

BETWEEN:

1. SRI. V. UDAYKIRAN
S/O SRI. V. GOPALKRISHNA GOKHALE
AGED ABOUT 38 YEARS
NO.B.505, MANTRI TRANQUIL APARTMENT
GUBBALLALA, KANAKAPURA ROAD
BENGALURU-560062
2. SRI. V. GOPALAKRISHNA GOKHALE
S/O SRI. MAHADEVIAH VASIREDDI
AGED ABOUT 64 YEARS
NO.121, SHIVAGANGA LAYOUT
SHOLAPUR LAYOUT, KESHWAPUR
HUBBALLI-580023
3. SMT. V. RAJANI
W/O SRI. V. GOPALAKRISHNA GOKHALE
AGED ABOUT 61 YEARS
NO.121, SHIVAGANGA LAYOUT
SHOLAPUR ROAD, KESHWAPUR
HUBBALLI-580023

...PETITIONERS

(BY SRI. K. DIWAKARA, SENIOR COUNSEL FOR
SRI. HITESH GOWDA &
SRI. ADITYA KASTURKAR, ADVOCATES)

AND:

1. THE STATE BY WOMEN POLICE STATION
BASAVANAGUDI, BENGALURU
THROUGH STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560001
2. SMT. DEEPA V
W/O SRI. V. UDAYKIRAN
AGED ABOUT 36 YEARS
AT 653/1, 5TH CROSS
BSK II STAGE
BENGALURU-560050

...RESPONDENTS

(BY SRI. M. DIVAKAR MADDUR, HCGP FOR R1;
SMT/KUM. MELANIE SEBASTIN, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE COMPLAINT, FIR CHARGE SHEET IN CR.NO.36/2016 REGISTERED BY THE FIRST RESPONDENT POLICE ON THE COMPLAINT GIVEN BY THE 2ND RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498A, 323, 34, 506 OF IPC AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT AND ENTIRE PROCEEDINGS IN C.C.NO.19854/2017 ON THE FILE OF THE II A.C.M.M., BENGALURU AND ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

The Crl.P.No.220/2018 is filed praying this Court to quash the proceedings initiated against the petitioner in Spl. C.C.No.559/2017 for the offences punishable under Sections 354A(1) of IPC and Section 7, 11(ii) of POCSO Act.

2. The Crl.P.No.8868/2017 is filed praying this Court to quash the complaint, FIR and charge sheet in C.C.No.19854/2017 arising out of Cr.No.36/2016 initiated against the petitioners for the offences punishable under Sections 498A, 323, 506 read with Section 34 of IPC along with Section 3 and 4 of the Dowry Prohibition Act (for short 'D.P. Act').

3. Heard the learned counsel appearing for the respective parties.

4. The factual matrix of case of the prosecution in Crl.P.No.220/2018 is that wife had filed the complaint against her husband/petitioner stating that the petitioner has committed a sexual assault on their daughter-respondent No.2 who is aged about 7 years. The allegation made in the complaint is that the daughter did not go to school in the

month of February for a period of 2 weeks and hence, the daughter was taken to Ramakrishna Hospital on 23.02.2017. That on 25.02.2017 inspite of child was not having good health, complaint was also given in the police station as child was refused to go to school and when the child was taken to the hospital on 28.02.2017 and on 03.03.2017, counseling was made and came to light that this petitioner misbehaved with her which caused the fear in her mind and also came to know through the NIMHANS doctor that due to the act of this petitioner, she being afraid of this petitioner. That on 09.03.2017, when complainant was coming along with daughter from the house of her sister, her daughter revealed that when she was taken by her father on Saturday and Sunday, the petitioner by closing the door, touched upon the private parts of his daughter and misbehaved with her. Hence, a complaint was lodged against the husband and registered the FIR and police have investigated the matter. This complaint is dated 23.03.2017. But in the complaint, an allegation is made against the petitioner that when she was asked her daughter that anybody had touched her badly or misbehaved with sex, daughter informed her that the petitioner closed the room door half and he would tell her he will give her body massage and

feel her body parts. She would feel very bad and he would scare her not to tell anybody anything and the daughter was revealed the same. Hence, the complaint was lodged. It is also stated that complainant also consulted the doctor on 03.03.2017 and evaluation was done and doctor confirmed that her daughter was molested.

5. The case of the petitioner that on 23.06.2016, the complainant deserted her matrimonial house leaving behind the petitioner and respondent No.2 who was an infant. The petitioner nurtured the child by ensuring all the care given to respondent No.2 as normally how a mother would give for more than 2½ months. During this period, the mother had forgotten respondent No.2 as her daughter who is really a young and would need the care of the mother too. Subsequently, on 08.09.2016, complainant went directly to the school of respondent No.2 and taken the child with her and from that day, she has not allowed the petitioner to meet respondent No.2 with a mala fide intention to harass him. It is contended in the petition that by estranged wife, being the father of respondent No.2, filed the petition in G&WC No.266/2016 seeking the custody of respondent No.2 along with IA for visiting right. The Family Court, upon mutual agreement

between the petitioner and the complainant, vide its order dated 21.10.2016 granted temporary custody of respondent No.2 to pick up her from the school on every Saturday till commencement of the school on Monday. To counter blast the same, complainant filed several cases like kidnapping invoking Section 363 of IPC and attempt to murder under Section 307 of IPC. The police having investigated the matter filed the B report. But the wife has implicated her husband along with his whole family making false charges of dowry harassment as well as domestic violence. The B-report also filed in respect of the offence under Section 498A of IPC in respect of accused No.4 and so also B-report was filed in respect of the offence under Section 307 of IPC. The Family Court Judge also rejected the application filed by the wife vide order dated 18.03.2017 when she had sought for seeking restraining order against the petitioner from going to the school of respondent No.2. When the complainant-wife failed to restrain the petitioner meeting respondent No.2 and to avoid implementation of the Family Court order dated 21.10.2016, with an oblique motive, initiated the false criminal complaint invoking the POCSO offences.

6. The counsel appearing for the petitioner in his arguments would vehemently contend that it is nothing but a

false case is registered against the petitioner and court has to take note of the date of events. The counsel contend that there is no dispute that marriage was solemnized on 20.01.2008 and gave birth to girl child i.e., respondent No.2 on 07.03.2010. The counsel would vehemently contend that the very complainant was addicted to alcohol and she took treatment in the hospital at Abhaya on 11.03.2016 in psychiatry department for addiction. So also in the month of 1st April to 14 April, 2016, she was admitted in Vyasa Hospital for alcohol de-addiction and re-admitted again in the last week of April 2016 and discharged from the hospital. The counsel would vehemently contend that a petition was filed under Section 7(1)(b) of the Guardians and Wards Act in G&WC No.266/2016 on 19.09.2016. It is also contended that in the meanwhile a false complaint was filed by the wife before the Thalagahathapura police and a case was registered in Cr.No.326/2016 for the offence under Section 363 of IPC against the brother-in-law and mother-in-law. The counsel would contend that police having investigated the matter filed the B-report on 24.03.2017. The counsel also vehemently contend that apart from that, one more complaint was filed in Basawangudi Women Police in Crime No.36/2016 for the offences under Sections 498A, 323, 506 read with

Section 34 of IPC, and Sections 3 and 4 of D.P. Act against the petitioner, her in-laws and other family members. The police have investigated the matter and filed the charge sheet and the said case is registered as C.C.No.198541/2017. But this court has stayed the said proceedings in the connected Crl.P.No.8868/2017. The counsel would vehemently contend that one more case is registered in HSR layout Police in Cr.No.634/2016 invoking the offences under Sections 341, 504, 307, 323 read with 149 of IPC against the petitioner, brother-in-law and mother-in-law and others. The police have investigated the matter and filed the B-report in that case.

7. The counsel also vehemently contend that when G&WC was filed by the petitioner, the trial court with the consent of both, temporary custody was given to the petitioner as an interim arrangement until further orders permitting the petitioner to take the daughter on Saturday and Sunday and hand over on the next Monday to the wife. The counsel also would submit that when such order was passed, an application was filed under Order 39 Rules 1 and 2 of CPC by the wife and the said application was dismissed. The counsel would contend that a false allegation is made that treatment was taken from the NIMHANS and alleged that doctor has confirmed the

molestation in respect of the child. The counsel would contend that no report of this date is made part of the charge sheet document. The counsel would vehemently contend that the complaint was filed on 23.03.2017 and that there was a delay in filing such complaint since according to the complainant, the incident was taken place in the month of February. The counsel also brought the notice on this court that NIMHANS has given the reply on 15.05.2017 stating that there was a discord between the parents and no whisper of the allegation in the entire reply with regard to the child was subjected to such an act rather. The letter is very clear that she never took the child for follow-up treatment. The counsel also vehemently contend that this court has granted anticipatory bail in Crl.P.No.5240/2017 in respect of the petitioner having considered the material. The counsel vehemently contend that the Banaswadi police have also filed a false charge sheet against this petitioner. The counsel would vehemently contend that even a complaint was given before the Hanumanthanagara Police Station who are not having any jurisdiction to register the case. The counsel also vehemently contend that when the charge sheet was filed, this court granted stay in this proceeding.

8. The counsel in support of his arguments, relies upon the judgment of this Court in the case of **GOVIND SHIVKUMAR vs STATE OF KARNATAKA AND ANOTHER** in **CRL.P.NO.3749/2022** dated **06.02.2024** and brought to notice of this Court that in a similar set of facts, this Court has observed that when the relationship between the husband and wife was failed, an attempt is made with mala fides. When the parents begin to wrangle, who is at pain is the child. So also this court discussed the judgment of Apex Court in the case of **Mahmood Ali vs State of UP (2023 SCC Online SC 950)** and made the analysis and comes to the conclusion that the facts obtaining in the case at hand would fit into what the Apex Court has held in the aforesaid judgment, as the complaint is so cleverly worded and projected that it is a clear case of sexual abuse of the child while the intent of the complainant is to use the child to settle his personal scores. The counsel also brought to notice of this Court the judgment of the Kerala High Court in the case of **Dr. Jaseer Aboobacker vs State of Kerala (2018 SCC Online Ker.3111)** and considered paragraph 7. In paragraph 8 also considered the case of **Subhash Kasinatha Mahajan (Dr.) vs State of Maharashtra (2018) 6 SCC 454** wherein it is held that the

powers has been misused. Also the High Court of Madras in the case of **N Chandramohan vs State (2019 SCC Online Mad 3666)** made an observation that an allegation made by the wife who resorted to giving a complaint against her husband alleging that he has committed sexual assault against their daughter, who is aged about 11 years. The court taking note of the judgment of the Madras High Court and also considering the case on hand, comes to the conclusion that it is clearly in gross abuse of the penal provisions by the complainant to settle his idiosyncratic scores with the mother of the child, who had left him and married the petitioner. The counsel also would contend that court comes to the conclusion that what is emerging as a trend called '**malicious parent syndrome**' and in paragraph 22, taken note that parents should therefore ponder and introspect before making such allegations. So also taken note of paragraph 102 of the judgment of **State of Haryana vs Bhajan Lal (1992 Supp(1) SCC 335)**.

9. The counsel also relied upon the judgment of High Court of Madras in the case of **N CHANDRAMOHAN vs STATE AND ANOTHER** reported in **2019 SCC ONLINE MAD 3666** and brought to notice of this Court paragraph 10 wherein an observation is made that this case has shocked the conscience

of the court and it is unbelievable that the mother just for the sake of taking custody of her child, can go to the extent of making such serious allegations against her husband by alleging that he is having physical contact with his own daughter. The counsel also brought to notice of this Court the discussions made in paragraphs 13, 14 and 15 of the said judgment.

10. The counsel also relied upon the judgment of Apex Court reported in **2023 SCC ONLINE SC 950** in the case of **MAHMOOD ALI AND OTHERS vs STATE OF UP AND OTHERS** and brought to notice of this Court the discussion made in detail in paragraphs 13 and 14 wherein an observation is made that while dealing with such allegations, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the acquisition made, and a case where there is legal evidence which, on appreciation, may or may not support the acquisitions. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether a reasonable appreciation of the

accusation will not be sustained. That is the function of the trial judge.

11. The counsel also relied upon the judgment of the Apex Court reported in **(2025) 3 SCC 735** in the case of **DARA LAKSHMI NARAYANA AND OTHERS vs STATE OF TELANGANA AND ANOTHER** and brought to notice of this the discussion made in paragraph 33 wherein the Apex Court relied upon the judgment of **Preeti Gupta vs State of Jharkhand** wherein it is held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. In paragraph 34 also discussed with regard to that if any complaint was initiated with an ulterior motives to settle the personal scores and grudges to be taken no of them.

12. The counsel also relied upon the judgment of the Apex Court reported in **2024 LIVE LAW (SC) 343** in the case of **ACHIN GUPTA vs STATE OF HARYANA AND AOTHER** and brought to notice of this Court the discussion made in this judgment referring to judgments of **Preeti Gupta; Arnesh Kumar; Geeta Mehrotra** wherein looked into the fact that the

husband or relatives or husband of a woman subjecting her to cruelty.

13. The counsel also relies upon the recent judgment of the Apex Court reported in **2026 LiveLaw (SC) 566** in the case of **ISHWAR CHAND SHARMA AND OTHERS vs STATE OF UTTAR PRADESH AND ANOTHER**, wherein also a case was registered under Sections 498A, 307, 302 and other offences and number of cases are registered and having considered the factual aspects and also in the light of the judgment of **BHAJAN LAL**'s case referred supra and also rising trend in vexatious litigation particularly in paragraphs 9.6, 9.7, 9.8 taken note of misusing of the powers which would tantamount to an abuse of the process of law and also the advocates who indulged in such acts, converting the matrimonial dispute into several cases is a mala fide intent and ulterior motive to wreck havoc and vengeance on the spouse and in the bargain, seek the best compromise. The Courts have to exercise utmost caution and restraint while entertaining such suits and criminal proceedings as any misstep and overreach can have a cascading effect on the health, both mental and physical, of the parties involved and the sanctity of the institution of marriage itself. The Apex Court also referred the

judgment of **Dara Lakshmi Narayana** referred supra and extracted paragraphs 27 and 30 of the said judgment. So also in detail discussed in paragraph 10.1 referring the **Achin Gupta's** case referred supra and in 10.2 made an observation that it is pertinent to underscore the important role played by the legal fraternity in bringing down the overall pendency of the cases in the Family Courts.

14. Per contra, the counsel appearing for the respondent/complainant would vehemently contend that the allegation made in the petition that a false case has been registered against the petitioner cannot be accepted. The counsel would submit that even the petitioner has initiated a cheque bounce case against the respondent i.e., his wife and in that case, the court has acquitted her. The counsel also vehemently contend that the material before the court is very clear with regard to subjecting her daughter for committing an offence under 354(1) of IPC and Sections 7 and 11 of POCSO Act. The counsel also contend that a discharge application was filed and the same was rejected and thereafter trial Court also framed charges and even issued the summons to the witnesses. At that juncture, stay was obtained. The counsel also vehemently contend that when the discharge application

was rejected and charges were framed, this court has to allow the trial court to proceed in the case. The counsel also vehemently contend that when the child was taken, the petitioner herein misbehaved with her and caused the fear in the mind of the child and only on insistence, child has revealed with the mother and immediately child was taken to the hospital and doctor also clarifies the molestation.

15. The counsel also vehemently contend that there is a specific allegation against the petitioners for the offence under Section 498A of IPC. When the complaint was filed only accused No.4 was not implicated in the charge sheet and B-report was filed in respect of him and in respect of others is concerned, found the material and hence, charge sheet is filed. But charges are not yet framed. But court has to take note of the specific allegations made against the petitioners in order to invoke the offence under Section 498A of IPC and other offences under Sections 3 and 4 of POCSO Act.

16. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record and in keeping the principles laid down in the judgments

referred supra, the points that would arise for the consideration of these petitions are:

1. Whether the petitioner has made out the grounds to invoke Section 482 of Cr.P.C to quash the proceedings initiated against him in Special C.C.No.559/2017 for the offence under Section 354A(1) of IPC and under Sections 7 and 11(ii) of POCSO Act?
2. Whether the petitioners have made out the grounds to invoke Section 482 of Cr.P.C to quash the proceedings initiated against them in C.C.No.19854/2017 arising out of Cr.No.36/2016 for the offences under Sections 498A, 323, 506 read with 34 of IPC and Sections 3 and 4 of D.P.Act?
3. What order?

Point No.1:

17. Having perused the material on record, there is no dispute between the parties that marriage was solemnized on 20.01.2008. So also not in dispute that a child was born on 07.03.2010. It is also not in dispute that when the dispute arisen between the parties, the petitioner categorically says that his wife had left the matrimonial house alone and she did

not take the child along with her and the petitioner had taken care of the child for about 2 months and later, the wife went to the school and took the child. Hence, he had filed the G&WC No.266/2016 invoking Section 7(1)(b) of the Guardians and Wards Act before the Family Court on 19.09.2016.

18. It is important to note that when G&WC was filed and temporary custody was sought, an interim arrangement was made until further orders permitting the petitioner to take the child to his custody on Saturday and hand over the child to the mother on the next Monday. Even, the matter was referred to the mediation as disclosed in the order sheet. It is also important to note that the wife also made an application under Order 39 Rules 1 and 2 of CPC and the said application was dismissed on 18.03.2017. The complainant states that on insistence, her daughter revealed that the father had misbehaved with her and the child was taken to the doctor. But it has to be noted that there was a strained relationship between the husband and wife. It is also the case of the complainant that when the child was taken to the hospital at NIMHANS, a doctor has confirmed that child was molested. But it has to be noted that there is no such report before the Court

and the same is also not part of the charge sheet as contended by the counsel appearing for the petitioner.

19. It is also important to note that complaint was filed on 23.03.2017 that too subsequent to the dismissal of the application filed by the wife in G&WC case. Hence, it is clear that the interim custody was given to the husband vide Order dated 21.11.2016 and claim made by the wife was rejected on 18.03.2017 which had led the filing of a complaint on 23.03.2017 and in between no such complaint was filed. The court has to take note of the contents of the complaint wherein the child did not disclose anything. But only on the insistence of the mother, while coming back, child has revealed the act of the petitioner. It has to be noted that the case was also registered in Cr.No.100/2017 by Hanumanthnagar Police Station.

20. It is also important to note that the counsel appearing for the petitioner brought to notice of this court the letter dated 15.05.2017 by the NIMHANS wherein it is very clear that there was a discord between the parents and also rightly pointed out by the counsel that no whisper of the allegation in the entire letter. The letter also clearly discloses

that when the child was taken to the NIMHANS on 28.02.2017 with complaints of school refusal, that child was refusing to go to school i.e., feeling fearful and anxious about separation from mother and clinging to mother. Subsequently, child was seen on 03.03.2017 and 11.03.2017 by a Junior and Senior Resident in the Department of Child and adolescent Psychiatry wherein the child had reported fear of being taken away by father from the school and hence was refusing to go to the school, restless if attended school, and excessive clinging to mother. The letter also very clear that there is no any allegation with regard to subjecting the child to any sexual act. It is also to be noted that even when the direction was given to the mother to bring the child, and even call was made over phone on 11.05.2017 by Dr. Kavita Jangam and was asked to come for assessments and discussion on 12.05.2017, mother did not come for the same and they were concerned about the mental health of the child and recommended that she be brought to the department of child and Adolescent psychiatry for further evaluation. But no such attempt was made by the mother. But in the meanwhile, an allegation was made against the husband that child was subjected for molestation.

21. The court has to take note of the contents of the complaint wherein there is no allegation that the child was subjected to molestation by the father. No doubt, the statement of victim girl was recorded under Section 164 of Cr.P.C wherein a statement is made that father had taken her forcibly to the Chennai and subjected to such act. The same is not found in the contents of the complaint filed by the mother and that complaint was even dated 23.03.2017 and there is inconsistency in the contents of the complaint as well as the statement made before the Magistrate and child was also in the custody of the mother and it appears to be tutored. Though it is stated that the treatment was taken from NIMHANS and alleged that doctor confirmed molestation and the same is not found in the letter dated 15.05.2017 issued by the NIMHANS and there is no any positive material to that effect. In the absence of any documentary proof to show that child was subjected for molestation, it is a fit case to exercise the powers under Section 482 of Cr.P.C.

22. The Apex Court, in a recent case of **ISHWAR CHAND SHARMA** referred supra taken note of the recent trend of vexatious litigation, particularly when the litigation between the parties and making the allegations particularly, Court is

cognizant of the fact that a genre of matrimonial litigation is on the rise in this country which inevitably includes within its ambit, a rise in filing of false, frivolous and vexatious cases with a mala fide intent and ulterior motive to wreck havoc and vengeance on the spouse and in the bargain seek the best compromise. Therefore, the courts have to exercise utmost caution and restraint while entertaining such suits and criminal proceedings as any misstep and overreach can have a cascading effect on the health both mental and physical, of the parties involved and the sanctity of the institution of the marriage itself. In the said judgment even discussed the judgment of **Dara Lakshmi Narayana's** case and also the judgment of **Achin Gupta's** case which is also relied upon by the counsel for the petitioner and also taken note of even important role played by the legal fraternity in bringing down the overall pendency of the cases in the criminal courts. This Court also in the judgment of **Govind Shivakumar** referred supra taken note of the similar set of facts. So also the Madras High Court in **N Chandramohan's** case referred supra in paragraphs 10, 13 to 15 dealt with the similar set of facts and so also in the judgment of the Apex Court in the case of

Mahmood Ali referred supra taken note of the scope in paragraphs 13 and 14.

23. Having perused the materials on record, it is very clear that this is a case of classic example of afterthought and for personal vengeance against the husband, a false case was registered and child did not reveal anything. Only in the complaint, it says that while coming back, on enquiry, child revealed the same. Having considered the factual aspects of the case, it discloses that it is a fit case to exercise the power under Section 482 of Cr.P.C since the wife subsequent to the difference arisen between the husband and wife and also the order of interim custody of the child, had gone to the extent of making such allegation against her husband. Having considered the complaint, it discloses that the same not substantiate the accusation made by the wife and no report to that effect that the child was subjected to molestation. Hence, it amounts to an abuse of process. If the proceedings is continued merely because application for discharge is rejected, the same cannot be a ground and also framing of charge is not a ground to reject the petition filed under Section 482 of Cr.P.C having considered the factual aspects of the case. Hence, answer the point No.1 as affirmative.

Point No.2:

24. Crl.P.No.8868/2017 is in respect of seeking the relief of quashing of the proceedings initiated against the petitioners i.e., accused Nos.1 to 3 for the offences under Sections 498A, 323, 506 read with 34 of IPC and Section 3 and 4 of D.P.Act. The court has to take note of the contents of the complaint from Document No.1 wherein allegations are made which runs about 8 pages and so also take note of the contents of paragraph 10 of the FIR and so also the accusation made in the charge sheet which is produced as Document No.3. Having perused the accusation made in the charge sheet, it discloses that an omnibus statement is made against accused Nos.1 to 3 that they demanded 2 kg of gold at the time of marriage from CW1 and CW2 and 20 kg of silver articles and for cloth also they have received an amount of Rs.5,00,000/- and so also Rs.3,50,000/- for the gift and marriage also performed as demanded by them.

25. It has to be noted that the marriage was held on 20.01.2008 and no dispute till 2016. It is also not in dispute that the child was born on 07..03.2010. The counsel for the petitioner also contend that complainant addicted to alcohol and she was hospitalized for de-addiction from 01.04.2016 to

14.04.2016 at Vyasa Hospital and also took treatment in the month of March in the psychiatry department in Abhay Hospital for addiction. The same is not disputed by the complainant. The court has to take note that this complaint was filed on 05.10.2016 with the Basavangudi woman police station and case was registered in Cr.No.36/2016 for these offences. It has to be noted that earlier to this complaint, on 20.09.2016, a case was registered for kidnapping invoking Section 363 of IPC in respect of Cr.No.326/2016. If really there was a demand of dowry and acceptance as well as subjecting for cruelty, ought to have been filed the complaint invoking these offences. But in respect of the offence under Section 363 of IPC, B-report was filed. So also in respect of the Cr.No.634/2016 of the HSR Layout police, the offences under Sections 341, 504, 307, 323 and 149 of IPC was invoked and B-report was also filed on 21.01.2017 and the same is not disputed.

26. The court has to take note of filing of complaint on 05.10.2016 for the offence under Section 498A, 323, 506 read with Section 34 of IPC. Hence, it is clear that the said complaint was filed after the initiation of G&WC proceedings on 19.09.2016 and so also the complaint of offence under Section 363 of IPC. No doubt, the police have investigated the matter

and filed the charge sheet. Having perused the charge sheet , the allegation in column 17 that accused No.1 demanded the amount of Rs.50,00,000/- from the complainant to get the car. But the allegation against accused Nos.2 and 3 that they were instigating accused No.1 to make galata with CW1 and also making an attempt to consume the alcohol by CW1 by forcibly. But the fact is very clear that she took the treatment for de-addiction of alcohol. The only allegation made against accused Nos.2 and 3 that they were instigating accused No.1 to get the documents in respect of the petrol bunk and forced CW1 to consume the alcohol. Hence, in view of the records produced, it clearly discloses that already she was addicted to the alcohol and she was admitted to the hospital for de-addiction. The only allegation made against accused Nos.2 and 3 that they were instigating accused No.1.

27. The court has to take note of the fact that when the marriage was held on 20.01.2008, immediately, the complainant joined her matrimonial home and in the said wedlock, she gave birth to the female child and no differences till 2016 i.e., almost 8 years. When the differences were arisen between them, these are the proceedings were initiated. The counsel appearing for the petitioner would contend that there

were 6 cases registered and out of that, in 2 cases, B-reports are filed. It is also important to note that both accused No.1 and also the complainant have shifted their family and they are not residing along with accused Nos.2 and 3. When such being the case, the court has to take note of the said development and also the differences between husband and wife and implicating of accused Nos.2 and 3 in the case. The specific allegation against them that both of them are instigating accused No.1. It is not the case of complainant that both of them are demanding money directly from CW1. When such being the case, it is a fit case to exercise the powers under Section 482 of Cr.P.C in respect of accused Nos.2 and 3 is concerned. The specific allegation of subjecting her for cruelty and making for additional demand and also assault is alleged against accused No.1. When such allegations are made against accused No.1, the same is a matter of trial, thus, accused No.1 has not made out any case to exercise the powers under Section 482 of Cr.P.C. Hence, answered the said point partly in the affirmative.

Point No.3:

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

ORDER

- (i) The CrI.P.No.220/2018 is allowed. The proceedings initiated against the petitioner in Spl. C.C.No.559/2017 for the offences punishable under Sections 354A(1) of IPC and Section 7, 11(ii) of POCSO Act is hereby quashed.
- (ii) The CrI.P.No.8868/2017 is allowed in part. The proceedings in C.C.No.19854/2017 arising out of Cr.No.36/2016 for the offences punishable under Sections 498A, 323, 506 read with Section 34 of IPC along with Section 3 and 4 of the D.P. Act is hereby quashed only in respect of accused Nos.2 and 3 and in respect of accused No.1 is concerned, the petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

SN