

(2012) 08 KAR CK 0175

In the Karnataka High Court

Case No : Criminal Revision Petition No. 242 of 2010

Jayamma and Hanumanthaiah

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 13-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 319 (1)
Penal Code, 1860 (IPC) — Section 304 B, 34, 498A

Citation : (2012) 08 KAR CK 0175

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : C.G. Sundar, for the Appellant; Vijayakumar Majage, HCGP, for the Respondent

Final Decision : Allowed

Judgement

A.N. Venugopala Gowda

1. Respondent, upon receipt of a complaint, registered in Crime No. 188/2008 for the offences punishable under Ss.498A, 304Br/w 34 IPC against 6 persons. FIR was sent to the Court on 2.5.2008. In the FIR, petitioners were shown as accused Nos. 4 and 6. After completion of investigation, charge sheet was filed on 23.7.2008, in C.C.No 14668/2008, against 4 accused, for the offences punishable under Ss.498A, 304B r/w 34 IPC in respect of the death of one Smt. Varalakshmi. On the question of jurisdiction, the case was committed to the Sessions Court and it was registered as S.C.No.951/2008, on the file of the City Civil and Sessions Court, Bangalore City. Matter having been assigned to the Fast Track Court, is now pending on the file of the Fast Track Court-XV, Bangalore City. Charge having been framed, trial has commenced. Learned Public Prosecutor filed an application dated 22.1.2010 under S.319 Cr.P.C., to include the petitioners as accused and to proceed against them. Learned Presiding Officer of the Fast Track Court, by merely noticing that there is allegation against the petitioners herein in the FIR, by opining that, it is necessary to issue

summons to the petitioners herein, shown in the FIR as accused Nos. 4 and 6, to try them along with A1 to A4, i.e., by arraigning the petitioners as accused Nos. 5 and 6, has allowed the said application. This Criminal Revision Petition is directed against the said order.

2. Heard the Learned Counsel on both sides and perused the record.

3. S.319(1) Cr.P.C., empowers the Court to proceed against other persons appearing to be guilty of the offence, where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused. The impugned order only makes a reference to the fact of the petitioners having been shown in the FIR as accused Nos. 4 and 6. The impugned order does not show that the Trial Court having perused the evidence and having formed an opinion that it is necessary to include these petitioners to be tried along with other accused for the offences alleged against the other accused. The impugned order is bald and laconic and hence unsustainable.

In the result, petition is allowed and the impugned order is set aside. Trial Court is directed to re-consider the matter keeping in view the provisions under S.319 (1) of Cr.P.C. Since the matter is quite old, the Trial Court to decide the application filed by the learned Public Prosecutor expeditiously and within a period of one month from the next hearing date.

Return the LCRs forthwith.