
(2013) 06 KAR CK 0156
In the Karnataka High Court
Case No : Criminal Petition No. 3643 of 2013

Mr. Samson Issac Gollapalli and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 26-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 498-A

Citation : (2013) 06 KAR CK 0156

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : James P. Arun Kumar, for the Appellant; Satish R. Girji, Government Pleader, for the Respondent

Judgement

Anand Byrareddy, J.—Heard the learned counsel for the petitioners and the learned Government Pleader. The petitioners who are before this court seeking anticipatory bail, are all related to each other. The petitioner No. 1 is married to one Smt. Mamma and there appears to be discord between the petitioner and his wife though they were married about one year ago. In the apprehension of the petitioners being taken into custody on the basis of a complaint said to have been lodged by Mahima, the petitioners had approached the court below seeking bail. Though interim bail had been granted by a vacation Judge, the matter having come before a regular Judge, he had taken a different view and dismissed the petition on the ground that there was no F.I.R. lodged and hence, the petition was premature.

2. The learned counsel would firstly draw attention to the celebrated judgment of the Supreme Court in Shri Gurbaksh Singh Sibbia and Others Vs. State of Punjab, wherein the view was that, in certain circumstances, even without a complaint being lodged, there is no impediment for the High Court in exercise of power u/s 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Cr.P.C.", for brevity), to grant relief. He would point out that coupled with

the further recent dictum of the Supreme Court in the case of K. Srinivas Rao vs. D.A. Deepa (2013 AIR SCW 1396) that in cases involving matrimonial disputes and where allegations are made for offences punishable u/s 498-A of the Indian Penal Code, 1860, which appears to be a common feature all over the country, there are specific directions issued to deal with the matter, and to first of all refer the matter to mediation to ensure that there is a possibility of the parties reconciling and the entire proceedings being dropped. In that regard, he would submit that, if the petitioner and his family members are taken into custody and are arrested, it would put their back up and they would not be in a mood to reconcile and the marriage itself may end in divorce or other such unfortunate situation and hence, would submit that the petitioners be granted anticipatory bail.

In the light of the law laid down by the Supreme Court, to ensure that the guidelines issued in the case of K. Srinivas Rao vs. D.A. Deepa are also complied with, in the event of the arrest of the petitioners, they shall be enlarged on bail subject to the following conditions:

- (i) The petitioners shall execute self bonds, each, for a sum of Rs. 10,000/- with one solvent surety, each, for a like sum to the satisfaction of the police.
- (ii) The petitioners shall make themselves available for interrogation by the concerned police, as and when required and shall attend the court on all dates of hearing.
- (iii) The petitioners shall not induce or threaten any prosecution witnesses.
- (iv) The petitioners shall not leave the jurisdiction of the court below without prior permission.

It is further directed that, in the event of the matter coming before the court below on the basis of the complaint filed by the wife of the first petitioner, the court shall refer the matter to mediation in the first instance as directed by the Apex Court in the case of K. Srinivas Rao vs. D.A. Deepa.