

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2021

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION No.2148 OF 2021

BETWEEN

Smt. Harini H.,
W/o. G.M.Kumar,
Aged 35 years,
R/at Guttalahunase Village,
Maralawadi Hobli,
Kanakapura Taluk,
Ramanagara District-562117.

...Petitioner

(By Sri. M.H.Prakash, Advocate)

AND

1. Smt. Kavya H. @ Sangeetha,
W/o. Chandrashekhar I.V.,
Aged 24 years,
R/at Hettagowdanahalli Village,
Kasaba Hobli, Arakalagudu Taluk,
Kanakapura Taluk,
Ramanagara District - 562117.

2. Sri.Chandrashekari V.,
S/o. Venkatesh,
Aged 38 years,
R/at No.3-21B, Neelanjan,
Badakka Village,
Alatte, Sullya Taluk,
Dakshinakannada District-574239.

3. Smt. Puttamani
W/o. Venkatesh,
Aged 60 years,
4. Sri. Venkataramaiah,
S/o. Late Venkataramaiah,
Aged 65 years,
5. Smt. Varija,
Retired Teacher,
No.3-21B, Neelanjan,
Badakka Village,
Alatte, Sullya Taluk,
Dakshinakannada District-574239.
6. Sri. Ganesh
S/o. Venkatesh,
Aged 32 years,
7. Sri. Purushotham,
S/o. Venkatesh,
Aged 35 years,

Respondent No.3, 4, 6 & 7 are
R/at Ichenahalli Village,
Kasaba Hobli,
Holenarasipura Taluk,
Hassan District-573211

...Respondents

(By Sri. C.P.Puttaraja, Advocate for R1,
Vide order dated 19.3.2021 petition
against R2 to R7 is dismissed)

This Criminal Petition is filed under Section 482 Cr.P.C., praying to quash the entire proceedings on the file of the Civil Judge and JMFC Arakalagudu in CrI.Misc.No.45/2021 initiated by the respondent No.1 Under Section 12 of Protection of Women From Domestic Violence Act as against the petitioner.

This Criminal Petition coming on for admission, this day, through video conferencing, the Court made the following:

ORDER

Heard both sides.

2. The argument of the petitioner's counsel is that the petitioner has been unnecessarily made a party by the 1st respondent in her application before the Magistrate under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('Act' for short). He submits that the only allegation found is that the 1st respondent suspected her husband to be having illegal relationship with the petitioner and he thought of bringing her to his house. Therefore he argued that the petitioner herein should not have been made a party in the application filed under Section 12 of the Act as she does not fall within the meaning of respondent as mentioned under Section 2(q) of the Act. So far as the petitioner is concerned it cannot be said that she has committed domestic violence to prosecute her to claim any relief from her. In fact if the reliefs claimed in the application

made under Section 12 of the Act are perused, no relief is claimed against the petitioner and therefore the proceedings against her requires to be quashed.

3. On the other hand, learned counsel for respondent no.1, i.e., the contesting respondent submits that because of the illegal relationship between the petitioner and the 1st respondent's husband, the 1st respondent used to be harassed. Domestic violence has been committed on the instigation of the petitioner and this is the reason for making her party in the application filed under Section 12 of the Act.

4. Now, if the definition of domestic relationship as mentioned under Section 2(f) of the Act is perused,

2(g). 'domestic relationship' means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

Section 2(q) 'respondent' means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act.

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner."

5. Section 2(q) of the Act makes it clear that only those persons who have been in the domestic relationship can be made as respondent. In this case as argued by the petitioner's counsel, the allegation against the petitioner is that the 1st respondent's husband was suspected to be having illegal relationship with the petitioner and he thought of bringing the petitioner to his house. Except this allegation there are no other allegations against the petitioner which indicate that she too joined with the husband of the 1st respondent in harassing her. Therefore the petitioner does not come within the scope of respondent as envisaged under Section 2(q) of the Act. Making her respondent in the application filed under Section 12 of the Act is unwarranted.

There cannot be any proceedings against her under the provisions of the Act. Therefore it is to be stated that this petition deserves to be allowed. Accordingly petition is allowed. The proceedings against the petitioner in CrI.Misc.45/2021 on the file of JMFC, Arakalagudu are quashed as against the petitioner only.

**Sd/-
JUDGE**

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