



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL REVISION PETITION NO. 169 OF 2023

BETWEEN:

RAVI ROSHAN NAZARATH
AGED ABOUT 38 YEARS,
S/O ALBERT NAZARATH,
R/OF NEST, NEAR JAMIYA MAZJID,
SHIRVA POST AND VILLAGE,
KAUP, UDUPI - 574 106.

...PETITIONER

(BY SRI HARISH GANAPATHY, ADVOCATE)

AND:

1. ANITHA JASTINA MENDONSA
D/O BAPIST MENDONCA,
2. TERESA MENDONSA
W/O BAPTIST MENDONCA,
3. ARUN MENDONSA
S/O BAPTIST MENDONCA,

RESPONDENT NOS.1 TO 3 ARE
R/AT TAJE HOUSE,
YELLOR VILLAGE, PILAR POST,
MUDARANGADI, KAUP TALUK,
UDUPI DISTRICT - 574 106.

4. AGNIS D SOUZA,
W/O JOHN D'SOUZA,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



R/AT PILAR POST,
MUDARANGADI, KAUP TALUK
AND UDUPI DISTRICT - 574 106.

...RESPONDENTS

(BY SRI S.K. ACHARYA, ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397 R/W SECTION 401 OF CR.P.C., PRAYING TO SET ASIDE ORDER PASSED BY THE III ADDL.CIVIL JUDGE AND J.M.F.C., UDUPI, IN PCR NO.338/2022 DATED 14.06.2022 AND ALLOW THE COMPLAINT FILED BY THE PETITIONER IN PCR NO.338/2022 BEFORE THE III ADDL.CIVIL JUDGE AND J.M.F.C UDUPI.

THIS PETITION IS COMING ON FOR *HEARING ON I.A.*,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 14.06.2022 passed by III Addl. Civil Judge and JMFC, Udupi, in PCR no.338/2022, this revision petition is filed.

2. Sri Harish Ganapathy, learned counsel for petitioner submitted, marriage of petitioner and respondent was solemnized on 14.01.2013. It was submitted, it was an



arranged marriage and marriage expenses were borne by petitioner. But after marriage, respondent refused to co-habitat with petitioner. It was submitted, petitioner took respondent abroad. Even there she refused and stayed in relatives house. Though her Visa was for two years, she returned after one and half months. Due to said incident, petitioner suffered mental trauma and was constrained to seek medical treatment. It was later realized by petitioner that respondent no.1 had an affair with someone else, got pregnant and aborted it. It was submitted, petitioner had spent more than Rs.6 Lakhs for his marriage. If respondent no.1 did not have any interest in petitioner, she ought not to have agreed for marriage. This would substantiate that respondent no.1 had cheated petitioner and committed offences under Section 406 and 420 of IPC. Therefore, petitioner had submitted complaint with Shirva Police Station on 08.03.2022. When concerned police did not take any action on his complaint, application was also submitted to Superintendent of Police, Udupi. Even then, no action was taken, constraining petitioner to file private complaint before III Addl. Civil Judge and JMFC, Udupi in PCR no.338/2022. Though petitioner had narrated facts and



circumstances wherein offences under Sections 406 and 420 of IPC were substantiated, learned trial judge, under impugned order at Annexure-A, dismissed complaint. Assailing same, this revision petition was filed.

3. It was submitted, respondent no.1 did not co-habitat with petitioner even after marriage. This would indicate that she had no intention of carrying on marital life with petitioner and yet she had made petitioner to spent Rs.10 Lakhs on marriage. These allegations would constitute ingredients for offences under Sections 406 and 420 of IPC. Therefore, rejection of complaint by learned trial judge was not justified. It was further submitted, there was delay of 155 days in filing petition and same was on ground of ill-health and communication gap between petitioner and his counsel and seeks for allowing petition.

4. On other hand, Sri SK Acharya, learned counsel for respondents opposed petition. He has filed a memo producing a copy of judgment dated 25.11.2021 passed by Prl. Judge, Family Court, Udupi, in MC no.66/2021. It was submitted, there was no dispute about solemnization of marriage between petitioner and respondent. However, as relationship between



parties did not work out, respondent no.1 filed petition under Sections 10 (ix) and (x) of Divorce Act, 1869, in MC no.66/2021. Said petition, on contest, came to be allowed by judgment dated 25.11.2021, leading to dissolution of marriage between petitioner and respondent. It was submitted, only thereafter, petitioner had filed complaint. It was submitted, when respondent had agreed for severance without any demurer and since decree of dissolution of marriage had attained finality, present petition was an attempt to vengeance against respondents and not *bonafide*. It was further submitted, though petitioner had produced petition filed by respondent for divorce as Ex.P2, decree passed thereon, even though same was prior to date of filing complaint was totally suppressed. In any case, trial Court had dismissed private complaint on ground that necessary ingredients constituting offences under Sections 406 and 420 of IPC were not substantiated, nor petitioner had led any evidence to establish that he has incurred loss of Rs.10 Lakhs as claimed. On above grounds, sought for dismissing application.

5. Heard learned counsel and perused material on record.



6. From above, question that would arise for consideration in this revision petition is,

"Whether order passed by trial Court dismissing private complaint suffers from any error apparent on record or suffers from perversity?"

7. Perusal of impugned order, pleadings and deposition of petitioner as well as material on record would indicate that trial Court arrived at conclusion that there was no evidence to substantiate that petitioner has sustained loss of Rs.10 Lakhs as claimed. It however observed, in order to attract offences under Section 405 of IPC i.e., criminal breach of trust, would get attracted only where a person entrusted with property dishonestly misappropriates, converts, uses, or disposes of that property in violation of any legal direction or contract, or allows someone else to do so. To prove this offense, prosecution must demonstrate that accused had possession of property on behalf of another person and acted with dishonest intent, Absolutely, no pleading or material was produced to that effect. Likewise, in order to attract offences under Section 420 of IPC, constraining someone to do an act on deception by any person was required to be stated or established. However, complainant had deposed that he had



spent Rs.6 Lakhs towards marriage expenses voluntarily. If it were so, offence under Section 420 of IPC would not be substantiated. Trial Court also noted that complainant had only produced application filed by respondent no.1 for divorce and not produced decree of divorce granted by Family Court in MC no.66/2021. In case, petitioner had any monetary claim against respondent no.1, same ought to have been adjudicated in said petition. Such being case, filing of present private complaint, after disposal of matrimonial case between petitioner and respondent no.1, would amount to abuse of process of Court, if not harassment. Hence, revision petition is ***dismissed*** as being devoid of merit.

Sd/-
(RAVI V HOSMANI)
JUDGE