



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 3769 OF 2026

BETWEEN:

ANWAR,
NAMED AS ANIL KUMAR
IN THE CHARGE SHEET,
S/O ABDULLA TUKARAM,
AGED ABOUT 49 YEARS,
R/AT NO.SS PURAM,
OPPOSITE TO SUNITHA HOTEL,
TUMAKURU – 572 102.

...PETITIONER

(BY SRI. K.V.NARASIMHAN, ADVOCATE)

AND:



1. THE STATE OF KARNATAKA,
THE SUB-INSPECTOR OF POLICE,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
BAGALUGUNTE POLICE STATION,
BAGALAGUNTE,
BENGALURU – 560 073,
REPRESENTED BY



STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU – 560 001.

2. SMT. MAMATA (MAMTAZ),
AGED ABOUT 41 YEARS,
W/O ANWAR,
NAMED AS ANIL KUMAR
IN THE CHARGE SHEET,
R/AT NO.756,
NAGARATHNANILAYA,
20TH CROSS,
BAGALAGUNTE VILLAGE,
BENGALURU – 560 073.

...RESPONDENTS

(BY SRI. B.N.JAGADEESHA, ADDL. SPP FOR R1;
SRI. B.V.MOHAN ADEKAR, ADVOCATE FO R2)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO ALLOW
THIS APPEAL AND SET ASIDE THE IMPUGNED ORDER DATED
25.02.2026 PASSED IN C.C.NO.33385/2021 ON THE FILE OF
THE LEARNED XXXI ADDL. CJM AT BENGALURU ON IA UNDER
SEC.91 OF CR.P.C R/W SEC.94(1) OF BNSS ACT AT ANNEXURE
D.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before this Court seeking the following prayers:

"**A.** Call for records in C.C.No.33385/2021 on the file of the Learned XXXI Addl. Chief Metropolitan Magistrate at Bangalore.

B. Allow this appeal and set aside the Impugned order dated 25.02.2026 passed in C.C.No.33385/2021 on the file of the Learned XXXI Addl. Chief Judicial Magistrate at Bangalore on IA under Section 91 of Cr.PC R/w Section 94(1) of BNSS Act at **ANNEXURE-D**.

C. Grant such other and further Relief that this Hon'ble court deems fit under the facts and circumstances of the case in the interest of justice and equity."

2. Heard Sri.K.V.Narasimhan, learned counsel appearing for the petitioner, Sri.B.N.Jagadeesha, learned Addl. SPP appearing for respondent No.1, Sri.B.V.Mohan Adekar, learned counsel appearing for respondent No.2 and have perused the material on record.

3. The petitioner gets embroiled in a crime in Crime No.343/2021 for offences punishable under Sections 498A, 504 and 506 of the Indian Penal Code. The issue in the *lis* is not with regard to the merit of the matter. The petitioner-accused



files an application under Section 91 of the Cr.P.C., read with Section 94 of the BNSS, seeking summoning of the mutavalli namely one S.Sadiq to tender evidence and to produce documents. The concerned Court rejects the same, the rejection of which has driven the petitioner to this Court in the subject petition.

4. Learned counsel appearing for the petitioner would vehemently contend that the examination of the mutavalli which was sought through the application under Section 91 of Cr.P.C., is imperative as the nikha document is marked as Exhibit D3 and the said document is to be spoken to by the mutavalli in whose presence the nikha had taken place. The concerned Court has rejected the application without any rhyme or reason, is the contention of the counsel.

5. Learned counsel appearing for the respondent-complainant would submit that the examination of mutavalli is not the scope of section 91 of the Cr.P.C. If mutavalli has to give evidence by way of examination-in-chief, no purpose would be served, as the document clearly indicates that two are married and the allegations have sprung from out of the



marriage. Merely because the complainant is a Muslim and the petitioner a Hindu, and the nikha is performed in the mosque, the document of the mosque being available, would not mean that the mutavalli should be examined as a witness.

6. I have given my anxious consideration to the submissions made by learned counsel for the parties and have perused the material on record.

7. The concerned Court on the application filed by the petitioner under section 91 passes the following order:

"ORDERS ON APPLICATION FILED U/S 91 OF Cr.P.C.
R/w 94(1) of BNSS

By this application, counsel for accused has sought to issue summons to Muthavali S.Sadiq Al-Jamath-UI-Muslameen, Y.N.Hosakote-572141 to tender evidence by producing relevant documents.

2. On the other hand, the Learned Sr.APP has filed objections.

3. Heard arguments and perused the entire case file, so also the averments of application and objections.

4. Herein the accused persons are charged for the offence under Section 498(A), 494, 420, 504, 506 of IPC. It is pertinent to note here that the marriage between complainant and accused is love marriage and complainant belong to Muslim community and accused belongs to Hindu community and after the said love marriage the Nikha has been performed and registered in the Mosque of Y.N.Hosakote and concerned Muthavali also issued certificate as per rituals of Islam



community. But in the present case the prosecution itself shows that the complainant being the Muslim married to a accused no.1 who is Hindu. The offences charged against the accused persons are under Section 498(A), 494, 420, 504, 506 of IPC and there is no any difference provisions applicable to the Hindu community or Muslim community in respect of the offences P/U/S.498(A), 494, 420, 504, 506 of IPC and as per the evidence available on record and prosecution case the complainant no where denied that prior to her marriage she belong to Muslim community and her name was Mamtaz and after marriage accused no.1 her name is change to Mamatha and presently she is using her name as Mamatha in all the documents.

5. It is to be noted here that if the summons is issued to the Muthavali to produce the Nikha documents and to give evidence before the court. No purpose will be served as there is no denial from both sides that at the time of marriage the accused no.1 belong to Hindu community and complainant belongs to Muslim community. Further there is no any specific or special provision for the cruelty to Hindu women or Muslim women. The present matter is direction issued by Hon'ble High Court of Karnataka for timely disposal of present case. In the present application filed by accused persons after conclusion of trial when the case is posted for defence evidence. Under the circumstances, keeping in mind the facts and circumstances of case, I proceed to pass the following:

ORDER

The application filed by accused U/s.91 of Cr.P.C R/w 94 (1) of BNSS is hereby rejected.

Sd/- 25/2/26
XXXI A.C.J.M., B'luru City."

8. The issue in the *lis* is with regard to alleged cruelty meted out by the husband upon the wife. What will mutavalli



come and depose with regard to the said cruelty, is un-understandable. For a document of marriage, the nikhanama is already produced. Therefore, there is no warrant of interference with the order passed by the concerned Court finding no error.

9. The petition lacking in merit, stands **dismissed**.

Sd/-
(M.NAGAPRASANNA)
JUDGE