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**(2016) 08 KAR CK 0058**

**KARNATAKA HIGH COURT (DHARWAD BENCH)**

**Case No:** Criminal Petition No. 100868 of 2016

Smt. Nagamani Dattatreya

APPELLANT

Vs

State of Karnataka

RESPONDENT

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**Date of Decision:** Aug. 23, 2016

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Dowry Prohibition Act, 1961 - Section 3, Section 4
- Penal Code, 1860 (IPC) - Section 304B, Section 34, Section 498A, Section 504

**Citation:** (2016) 4 AirKarR 660

**Hon'ble Judges:** Aravind Kumar, J.

**Bench:** Single Bench

**Advocate:** Shrikant D. Babladi, Advocate, for the Petitioners; Raja Raghavendra Naik, HCGP, for the Respondent

**Final Decision:** Partly Allowed

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**Judgement**

@JUDGMENTTAG-ORDER

**Aravind Kumar, J.** - This petition is filed under Section 439 Cr.P.C. by accused Nos.2 to 4 in Cr.No.116/2016 registered by Gandhi Nagar police station, Ballari, for the offences punishable under Sections 498-A, 504,304-B read with Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, seeking for grant of bail.

2. A complaint came to be lodged by one Sri. K. Chandrashekhar, father of deceased Smt. Kaveri, alleging that his daughter Smt. Kaveri was given in marriage to accused No. 1/Sri. Rupendra Prasad on 26.03.2016 and at the time of solemnisation of marriage, Rs.6 lakhs (rupees six lakhs) by cash was paid as dowry along with six tholas of gold. It is further stated that accused No.1 was working in M/s. Ogent Glass Company at Mehboob Nagar, Telangana (Andhra Pradesh State) and had left his wife i.e., daughter of the complainant with his parents at Ballari and he was residing

alone at Mehboob Nagar. He further alleges that one month prior to lodging of complaint, his daughter Smt. Kaveri had informed him over phone that accused Nos.2 to 4 have been making reckless allegation that she is not able to cook properly or attend the household work in a systematic manner. It is also alleged that accused No. 1 had also informed that deceased Smt. Kaveri should stay with his parents only and not with him at Mehaboob Nagar and had also abused her in foul language. It is further stated that accused No.1 used to inform deceased that he would have married a girl more beautiful than her by receiving more dowry and as such, he was demanding additional dowry from her parents which fact was informed by deceased to the complainant. The complainant has also stated that he was con soling his daughter and also the accused per sons that since her marriage was performed recently and he would make arrangements to pay additional dowry after his economic condition improves. It is stated that despite such assurances given, harassmt given to his daughter by the accused persons did not stop but continued. He has alleged that on 19.06.2016, accused No.1 had come to Ballari and informed his wife (Smt.Kaveri) that she should not inform her parents as to what transpired at her matrimonial home and thereafter on 20.06.2016 at about 8.30 p.m., complainant received a telephone call from accused No.1 that Smt. Kaveri has committed suicide in his house by hanging to a ceiling fan and on account of his staying away from Ballari, he asked the complainant to proceed to Ballari immediately. On reaching the house where Smt. Kaveri was staying, they found the dead body. It was found that Smt. Kaveri being unable to bear the harassmt of accused, had committed suicide between 8 p.m. to 8.30 p.m. on 20.06.2016. Accordingly, alleging dowry harassmt and same being the cause for death, complaint came to be lodged which was registered by the jurisdictional police and petitioners along with accused No. 1 were apprehended on 21.06.2016.

3. It is the contention of Mr. Shrikant D. Babladi, learned counsel appearing for the petitioners that petitioners are in no way responsible for the death of Smt. Kaveri and when complaint read as a whole does not suggest about any allegation having been made against petitioners so as to attract the ingredients of Section 498-A of IPC. He would also elaborate his submission by contending that no material is available on record to arrive at a conclusion that petitioners have committed the offence punishable under Section 304-B of IPC and petitioner No.2 who is the daughter of petitioner Nos.1 and 3 undisputedly is residing in a separate house along with her family members and she has been falsely implicated in the instant case. Hence, he prays for grant of bail.

4. Per contra, learned Government Pleader appearing for the State submits that prima facie averments made in the complaint would suggest that deceased had committed suicide being unable to withstand the harassmt meted out by accused persons which was demand of additional dowry and as such, he prays for rejection of the petition.

5. Having heard the learned advocates appearing for the parties and on perusal of the averments made in complaint as also medical records of accused No.4 produced along with present petition as per Annexures-E to G it would disclose that complainant has stated that petitioners were taunting deceased about her incapacity to perform household chores. Said allegation is made against all the petitioners i.e., accused 2 to 4. At the same time, it requires to be noticed that 2nd petitioner who is the daughter of petitioner Nos. 1 and 3 undisputedly was given in marriage to one Sri. Mallikajuna and they were residing in a separate house. As to whether she was regularly visiting the house of deceased (where deceased was staying along petitioners 1 and 3) or at what intervals she was visiting are all facts which have to be thrashed out during the course of trial. At this stage, the complicity of 2nd petitioner in causing harassment to the deceased cannot be accepted. Any opinion expressed by this Court in this regard would prejudice the rights of the parties and as such, said exercise is not undertaken. In that view of the matter, this Court is of the considered view that petitioner No.2 is entitled for the relief sought for.

6. Insofar as the claim of 3rd petitioner i.e., the father-in-law of the deceased is concerned, records would indicate that 3rd petitioner has undergone "Laparoscopic Cholecystectomy" on 09.10.2012 and he is also suffering from "acute hemorrhage in right capsuloganglionic region" as per the CT scan report dated 21.04.2013 and he has also been admitted to the hospitals now and then as evidenced from Annexures-E to G. Considering his age which is at 65 years and his medical condition and also the fact that there is no specific overt act alleged against 3rd petitioner in the complaint except an omnibus statement, this Court is of the considered view that 3rd petitioner is also entitled for being released on bail.

7. However, considering the fact that deceased was staying along with petitioners 1 and 3 and 1st petitioner having alleged to have harassed deceased which lead to deceased Smt. Kaveri committing suicide, this Court is of the considered view that 1st petitioner would not be entitled for the relief sought for. Hence, I proceed to pass the following:

#### ORDER

Criminal petition is hereby allowed in part. Petition filed by 1st petitioner is hereby dismissed and petition filed by petitioners 2 and 3 are hereby allowed in part and petitioners 2 and 3 i.e., accused Nos.3 and 4 are ordered to be released on bail on their executing personal bond for a sum of Rs. 1 lakh (rupees one lakh) each with one surety for the likesum to the satisfaction of the jurisdictional court and subject to the following condition:

i) Petitioners 2 and 3 shall appear before the jurisdictional court on all the dates of hearing unless there are exceptional circumstances,

ii) Petitioners 2 and 3 shall not leave the jurisdiction of the Court without express permission,

iii) Petitioners 2 and 3 shall not indulge in threatening or inducing prosecution witnesses.

Dismissal of this petition would not come in the way of 1st petitioner seeking for grant of bail before the jurisdictional court in view of the fact that charge-sheet has since been filed.