

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO. 888 OF 2018

BETWEEN:

1. SRI. PRAVEEN KUMAR ADYAPADY

2. SRI. ISHWARA POOJARY

... PETITIONERS

(BY SRI P.P. HEGDE, SR. ADVOCATE FOR
SRI. VENKATESH SOMAREDDI - ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
INVESTIGATING OFFICER
THROUGH THE INSPECTOR OF POLICE
HASSAN WOMEN POLICE STATION
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA AT
BENGALURU - 560 001.

2. ANNAPPA

... RESPONDENTS

(BY SRI. VINAYAKA V.S., HCGP FOR R-1;
R-2 SERVED - UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE PROCEEDINGS IN SPECIAL CASE NO.4/2018 PENDING ON THE FILE OF ADDL. DISTRICT & SESSIONS JUDGE, HASSAN FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 366, 420, 465, 468, 472, 376, 120A, 114, 120B R/W SEC.34 OF IPC AND SECTIONS 4, 5, 17, 12 OF THE POCSO ACT AND SECTIONS 9, 10 AND 11 OF THE CHILD MARRIAGE RESTRAINT ACT.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioners-accused Nos.8 and 10 under Section 482 of Cr.P.C., for quashing criminal proceedings in Special Case No.4/2018 pending on the file of Additional District and Sessions Judge, Hassan for the offences punishable under Sections 366, 420, 465, 468, 472,

376, 120A, 114, 120B read with Section 34 of IPC and Sections 4, 6, 17, 12 of the Pocso Act and Sections 9, 10 and 11 of the Child Marriage Restraint Act.

2. Heard learned counsel for the petitioners and learned High Court Government Pleader for the respondent No.1-State. Respondent No.2 served but unrepresented.

3. The case of the prosecution is that on the complaint of one respondent No.2, the Hassan Women Police Station registered a case in Crime No.99/2017 for the offences punishable under Sections 366(A) of IPC and Section 12 of Protection of Children from Sexual Offences Act, 2012. Subsequently the police investigated the matter and filed charge sheet. The allegation against these petitioners is that accused No.1 in collusion with accused Nos.2 to 7 approached petitioner/accused No.8 who is advocate/notary

declaring the date of birth of the victim as 25.9.1999 by correcting from 25.9.2000. Based upon the affidavit, the accused No.10 also made a declaration in the affidavit stating that the age of the victim was 18 years, even though she had not completed 18 years and shown her date of birth as 25.09.1999. The accused No.1 got married to the victim girl in Arya Samaj and after registering the case, it was found these petitioners being advocate/notary helped by giving declaration in the affidavit, therefore the charge sheet came to be filed, which is under challenge.

4. Learned senior counsel contended that the charge sheet filed against the accused after taking cognizance by the trial court is not sustainable. Hence petitioners being an Advocate and Notary where there is bar for taking cognizance under Section 13 of the Notaries Act, 1952, that apart the accused No.1 and others came and produced documents showing date of

birth which was signed by the petitioners-advocate/notary by giving the declaration that if anything is corrected or manipulated by other accused they are not aware about the same. On perusal of the same, they have signed the same and discharged duty without their knowledge, therefore there is no offence committed by any of them in any of the provisions of law and also contended that the co-accused persons already got the criminal proceedings quashed, hence prayed for allowing the petition.

5. Per Contra learned HCGP seriously objected the petition.

6. Upon hearing and perusal of records, which reveals accused No.1 got married the victim girl and the daughter of this complainant-respondent No.2, defacto-complainant by producing the affidavit before the Arya Samaj before accused Nos.7 and 9 and

married the victim girl, stating that victim girl was major and had attained age of majority by manipulating the date of birth of the victim girl as 25.09.1999 even though her actual date of birth was 25.09.2000. Admittedly these two petitioners were advocate/notary and they have given declaration in affidavit filed by the parties. After looking to the documents produced by the parties, ofcourse while discharging the duty they have signed and given declarations in the document produced by the parties but it cannot be said, these petitioners had intentionally colluded with the other accused persons and signed agreement of declaration for helping the accused No.1 by manipulating the age of the victim. That apart as per Section 13 of the Notaries Act, there is a bar for taking cognizance by the Court for offences committed by the advocate and notary. Under the said Notaries Act they have to obtain the

permission of the Central Government or State Government for filing the charge sheet and taking the cognizance. Admittedly, the petitioners are said to be Notary of Central Government. Such being the case, as per Section 13 of Notaries Act, sanction is necessary or permission is necessary before filing charge sheet and taking cognizance against this petitioner but no such permissions were obtained or produced by the Investigation Officer along with the charge sheet and also not mentioned anything about obtaining of the sanction in the charge sheet. Such being the case conducting criminal proceedings against these petitioners/accused Nos.8 and 10 requires to be quashed.

Accordingly petition is allowed.

Consequently, the criminal proceedings against the petitioners/accused Nos.8 and 10 in Special Case No.4/2018 pending on the file of Additional District

and Sessions Judge, Hassan for the offences punishable under Sections 366, 420, 465, 468, 472, 376, 120A, 114, 120B read with Section 34 of IPC and Sections 4, 6, 17, 12 of the Pocso Act and Sections 9, 10 and 11 of the Child Marriage Restraint Act, is hereby quashed.

**Sd/-
JUDGE**

AKV