HC-KAR

NC: 2025:KHC:47594
CRL.P No. 8134 of 2024
C/W CRL.P No. 9412 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2025

BEFORE

R

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 8134 OF 2024 (482(Cr.PC) / 528(BNSS)-)
C/W
CRIMINAL PETITION NO. 9412 OF 2021 (482(Cr.PC) / 528(BNSS)-)

IN CRL.P.NO.8134/2024
BETWEEN

1.
AGED ABOUT 54 YEARS,
S/O LATE HALAPPA.B.E,
OCCUPATION CARDIOLOGIST AT
NANJAPPA LIFE CARE,
5619, GADIKOPPA, SAGAR ROAD,
SHIVAMOGGA-577205.

RESIDING AT POST OFFICE BUILDING,
OPP. TO IDGS COLLEGE,
K.M.ROAD, JYOTHINAGAR,
CHIKKAMANGALURU-577102.

2.
AGED ABOUT 79 YEARS,
W/O LATE HALAPPA,
RESIDING AT POST OFFICE BUILDING,
OPP. TO IDGS COLLEGE,
K.M.ROAD, JYOTHINAGAR,
CHIKKAMANGALURU-577102.

3.
AGED ABOUT 58 YEARS,
W/O LATE NIRANJAN,
RESIDING AT NO.38,
ANNAPOORNESHWARI LAYOUT,

ULLAL MAIN ROAD,
BENGALURU-560060.

4.
AGED ABOUT 36 YEARS,
S/O LATE NIRANJAN,
RESIDING AT NO.38,
ANNAPOORNESHWARI LAYOUT,
ULLAL MAIN ROAD, BENGALURU-560060.

…. PETITIONERS

(BY SRI. HARSHA KUMAR GOWDA H R., ADVOCATE)

AND

1. STATE OF KARNATAKA
VIJAYANAGAR POLICE STATION,
BENGALURU.
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA
AT BENGALURU-560001.

2. ,
AGED ABOUT 49 YEARS,
D/O LATE SIDDEGOWDA,
RESIDING AT NO.62,
PUNARVASU, 2ND CROSS,
MARUTHI LAYOUT, VIJAYANAGARA,
BENGALURU-560040.

…. RESPONDENTS

(BY SRI. M.R. PATIL., HCGP FOR R1;
SRI. SANTHOSH KUMAR. M.B., ADVOCATE FOR R2)

THIS CRL.P FILED U/S 482 CR.PC PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS INITIATED AGAINST THE PETITIONER IN C.C.NO.28129/2023 FOR THE ALLEGED OFFENCES UNDER SECTION 498A, 504, 506, 307, 494 READ WITH SECTION 149 OF IPC AND SECTION 3 AND 4 OF DP ACT PENDING ON THE FILE OF THE LEARNED XXIV ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU AND TO PASS SUCH OTHER RELIEF'S AS DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE.

IN CRL.P.NO.9412/2021
BETWEEN

S/O LATE HALAPPA,
AGED ABOUT 47 YEARS,
OCCUPATION CARDIOLOGIST AT
NANJAPPA LIFE CARE
5619, GADIKOPPA, SAGAR ROAD,
SHIVAMOGGA 577205

RESIDING AT
POST OFFICE BUILDING,
OPP IDSG COLLEGE, K M ROAD,
JYOTHINAGAR,
CHIKKAMANGALURU 577102

…. PETITIONER

(BY SRI. A.N. RADHA KRISHNA., ADVOCATE)

AND

1. THE STATE OF KARNATAKA
   BY TUNGANAGAR POLICE,
   SHIVAMOGGA,
   REPRESENTED BY
   THE STATE PUBLIC PROSECUTOR,
   HIGH COURT
   BANGALORE 560001

2.
   AGED ABOUT 42 YEARS,
   D/O LATE SIDDEGOWDA,
   R/AT NO 62, PUNARVARSU,
   2ND CROSS, MARUTHI LAYOUT,
   VIJAYANAGAR,
   BENGALURU 560040

…. RESPONDENTS

(BY SRI. M.R. PATIL., HCGP FOR R1;
SRI. UDAYA PRAKASH MULIYA., ADVOCATE FOR R2)

THIS CRL.P FILED U/S.482 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.630/2019 FOR THE OFEFNCE P/U/S 498A OF IPC, PENDING ON THE FILE OF THE III ADDITIONAL CIVIL JUDGE (Jr.Dn) AND JMFC, SHIVAMOGGA DISTRICT.

THESE CRIMINAL PETITIONS COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 27.10.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. Petitioners in Criminal Petition 8134/2024 are before this Court seeking for the following reliefs:

   a. *Quash the entire Criminal Proceedings initiated against the Petitioner in C.C.No.28129/2023 for the alleged offences under Section 498A, 504, 506, 307, 494 read with section 149 of IPC and Section 3 and 4 of DP Act pending on the file of the Learned XXIV Additional Chief Metropolitian Magistrate, Bengaluru,*

   b. *Pass such other relief's as deems fit in the facts and circumstances of the case, in the interest of Justice.*

2. Petitioner in Criminal Petition 9142/2021 is before this Court seeking for the following reliefs:

   a. *Quash the proceedings in C.C.No.630/2019 for the offence punishable under Section 498(A) IPC, pending on the file of the learned III Additional Civil Judge, (Jr. Divn) and JMFC Court at Shivamogga District, in the interest of justice.*

FACTS IN CRL. P. 8134/2024:

3. Respondent No.2, de facto complainant, had filed a complaint on 23-08-2016 alleging that her marriage was solemnised with the Petitioner on 17-10-2010 as per Hindu customs and rituals, after which they were both living together in Bengaluru and thereafter, since her husband had job/work at Nanjappa Life Care Hospital at Shivamogga, they had shifted to Sharavati Nagar, Shivamogga, and started residing in the house of one Jacob DeCosta.

4. In the month of July 2016, when she went for treatment to her parents' house at Bangalore and when she returned on 18-08-2016, to her surprise, she found the house had been vacated and the Petitioner and his family members had taken all the properties by colluding with the owner of the house. Hence, she lodged a complaint against the Petitioner before the Respondent No. 1 Police, based on which

Crime No. 383 of 2016 was registered for offences under Section 380 of the Indian Penal Code.

5. Subsequently, Respondent No. 1 sought permission from the Learned Magistrate to include Section 143, 114, 498 AA, read with Section 149 of the IPC, as also to add four other persons as Accused No. 2 to 5. Investigation having been completed, a final report in CC No. 690 of 2019 has been filed only against the Petitioner and the other added accused have not been charge-sheeted. The Petitioner is challenging the cognisance taken in the said proceedings.

FACTS IN CRL. P. No.8134/2024:

6. In this matter, on 07.09.2016, the statement of the very same complainant as in Criminal Petition No. 9412/2021 - Respondent No.2 has been recorded by the Head Constable in the absence of the Casualty Medical Officer, Government KC General hospital, Malleshwaram, Bengaluru stating that on 17.09.2010

Respondent No.2 had married Petitioner No.1 and at the time of marriage, Respondent No. 2's family had given 1 kg gold, 3 kg silver and 10 lakh cash to the petitioners and thereafter, Petitioner No.1 and his family harassed Respondent No.2 complainant mentally and physically with a further demand of dowry. Petitioner No.1 had not disclosed his earlier marriage. On 05.09.2016, at about 10 pm, the Petitioners and other accused quarrelled with the complainant when the complainant questioned the marriage of Petitioner No. 1 and in this context Petitioners are alleged to have threatened the life of Respondent No.2 and other family members holding the respondent No.2, Petitioner No. 1 poured kerosene on the complainant and set her ablaze with an intention to cause a death. During that time, two unknown persons saved the complainant and informed the police. The Respondent No.2 sustained left leg burn injuries. Thereafter, when her mother

and brother came to the house, they shifted her to the KC General Hospital for treatment when the above statement was recorded. On the basis of the said statement, FIR in crime No. 450 of 2016, for offences under section 498A, 307, read with 34 of the IPC, and Section 3 and 4 of the Dowry Prohibition Act 1961, were registered.

7. Upon recording a further statement of the Respondent No. 2 Complainant, offences under section 494, 504 and 506 were added and the Charge sheet having been filed, cognisance having been taken, the matter is pending in CC No. 28129 of 2023, which is challenged in the present proceedings.

8. The submission of Sri.A.N.Radhakrishna, learned counsel for the petitioners in both the matters, is that,

8.1. Respondent No.2 is not the legally wedded wife of Petitioner No. 1, inasmuch as Petitioner No.1 has already been married; there could be no valid second marriage in favour of Respondent No. 2. His submission is that Petitioner is married to one Smt. Naveena has a daughter named Shravani. The said marriage being earlier in point of time than that of Respondent No.2, the question of making an allegation regarding offences under Section 498A would not arise. At most, the relationship between Petitioner No.1 and Respondent No. 2 could be a live-in relationship. The living together would not attract the offence of Section 498A, which can only be attracted in a valid and legal marital relationship.

8.2. The statement recorded by the Head Constable in the KC General Hospital has not been so recorded in the presence of the duty doctor and

as such, the statement would not be admissible in evidence. This he submits, would be so for the reason that if at all Respondent No. 2 had expired, the said statement would have been treated as a dying declaration and as such, the said statement would have to comply with the applicable requirement.

8.3. A medico-legal case has not been registered in a proper manner, and as such, the matter could not have been proceeded with.

8.4. Respondent No.2 is guilty of filing false complaints. There are several complaints which have been filed by Respondent No. 2, a complaint on 1-9-2013 had been filed before the Women's Police Station Shimoga, on 15-2-2014 before DYSP, Shimoga, 18-3-2014 before the Women's Police Station Shimoga, on 3-4-2014 again before the Women's Police Station, Shimoga, on 27-10-2014 before the Karnataka

State Women's Commission at Bengaluru, on 16-12-2014 before the Karnataka State Women's Commission at Bengaluru, on 7-01-2015, before the Karnataka State Women's Commission at Bengaluru, on 12-03-2015 before Karnataka State Women's Commission, on 10.04.2015 before the Karnataka Women's Commission. His submission is that all these complaints have been filed in a false manner only to harass the Petitioner.

8.5. The ingredients of the offence under Section 498A not having been made out, both the proceedings in both matters are required to be quashed.

8.6. A proceeding had been pending before the III Additional Civil Judge Junior Division at JMFC Court, Shimoga for offences under Section 498A and 380 of the IPC, another proceeding could not be filed and be pending in CC No.

28129/2023 before the 24th Additional Chief Metropolitan Magistrate Bengaluru for offences under Section 498A, 504, 306, 307, 494 read with Section 149 of IPC and Section 3 and 4 of the DP Act.

8.7. The Petitioner is being prosecuted for virtually the same offence in two different fora since one of the offences complained of is that under section 498A of the IPC.

8.8. On the basis of all the above, he submits that the above petitions are required to be dismissed.

9. Learned HCGP would submit that,

9.1. Initially, the complaint, which had been filed in Shimoga, was that of theft and subsequently, after recording of statements, the offence under section 498A was added, inasmuch as the statements indicated that the Petitioner and his family members had demanded dowry.

9.2. Insofar as the Bangalore matter is concerned, his submission is that it is on account of the act which has been committed in Bangalore of setting the complainant on fire that an offence under Section 307, being an attempt to murder, having been registered, proceedings have been initiated in Bangalore within the jurisdiction of the Court where the said offence was committed.

9.3. Insofar as offences under 498A, 504, 506, 494 and 149 of the IPC are concerned, they are incidental matters. His submission is that the State has no objection to both the matters to be taken up together and the trial to be conducted together.

9.4. As regards the contention of the learned counsel for the Petitioner that there is no marital relationship the Petitioner and the Respondent No.2, de facto complainant, his

submission is that the admitted living in relationship itself would be sufficient for initiating proceedings under section 498A.

10. Heard Sri.A.N.Radhakrishna, learned counsel for Petitioner and Sri.Udaya Prakash Muliya, learned counsel for respondent No.2 in Crl.P. No.9412/2021 and Sri.Harsha Kumar Gowda.H.P, learned counsel for the Petitioner and Sri.Santhosh Kumar.M.B, learned counsel for respondent No.2 in Crl.P.No.8134/2024 and Sri.M.R.Patil, learned HCGP for respondent No.1 in both the matters. Perused papers.

11. The points that would arise for determination are

1. **Whether an offence under Section 498A could be committed only in a Valid marital relationship, or could it be committed even in void/voidable marriage or a relationship in the nature of marriage, like a live-in relationship?**

2. **Whether prosecution could be continued in two different fora prosecuting the accused for the very same offence under section 498A?**

3. Whether in the present case, the statement recorded by the Head Constable would have to stand the test as applicable to a dying declaration?

4. What order?

12. I answer the above points as follows:

13. **ANSWER TO POINT NO.1: Whether an offence under Section 498A could be committed only in a Valid marital relationship, or could it be committed even in void/voidable marriage or a relationship in the nature of marriage, like a live-in relationship?**

13.1. Section 498A of the Indian Penal Code, 1860**,** which reads as follows:

> ***498A. Husband or relative of husband of a woman subjecting her to cruelty.*** *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*
>
> ***Explanation.—****For the purposes of this section, "cruelty" means—*
>
> *(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
>
> *(b) harassment of the woman where such harassment is with a view to coercing her or any*

> *person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.*

13.2. A careful perusal of the above statutory provision reveals that the legislative intent underlying Section 498A IPC is to protect a woman from cruelty at the hands of her husband or his relatives. The section criminalises such conduct and prescribes punishment for the same. The explanation appended to the section defines the term *"cruelty"* in two distinct but complementary limbs — first, covering wilful conduct of such nature as is likely to endanger the life, limb, or mental or physical health of the woman; and second, encompassing harassment with the object of coercing the woman or her relatives to meet any unlawful demand for dowry or valuable security.

13.3. The provision, therefore, has a twofold object — (i) to deter acts of physical or mental cruelty which drive women to despair or suicide; and (ii) to curb the social evil of dowry-related harassment. It is a remedial and socially beneficial provision, designed to ensure the dignity, safety, and protection of women.

13.4. It is the contention of Sri. Radhakrishna**,** learned counsel for the Petitioner, that the foundational requirement for invoking Section 498A is the existence of a legally valid marital relationship between the complainant and the accused. It is submitted that the expression "husband" in Section 498A cannot encompass a person who, in law, cannot be deemed to be a husband — such as one whose earlier marriage is subsisting, rendering the subsequent marriage void ab initio. According to the learned counsel, since the Petitioner's marriage

with Respondent No.2 is void, null, and without legal sanctity, the Petitioner cannot, in law, be prosecuted under Section 498A IPC. Reliance is placed on the literal wording of the Section, which explicitly refers to "husband" and "relative of husband."

13.5. In essence, the argument advanced is that Section 498A contemplates only those cases where a legally recognised marriage exists; consequently, the Petitioner, having already been married to one Smt. Naveena, cannot be regarded as the "husband" of Respondent No.2, and hence, no offence under Section 498A IPC can be made out against him.

13.6. I'am unable to accept this submission. The argument proceeds on an unduly technical construction of the provision, divorced from its legislative purpose and the social context in which it operates. It is well settled that a penal

provision enacted to remedy a social evil must be interpreted in a manner that advances the object of the legislation rather than in a manner that defeats it**.** The Court cannot permit the accused to take advantage of his own wrong**,** particularly where he himself has acted in deceit and bad faith to induce Respondent No.2 into a relationship clothed with the appearance of marriage.

13.7. In the present case, it is an admitted fact that the Petitioner had already been married to one Smt. Naveena**,** and a child was born out of that wedlock. Despite the subsistence of that marriage, the Petitioner, by suppressing the existence of the first marriage**,** married Respondent No.2, and thereafter cohabited with her as husband and wife. The materials on record indicate that the Petitioner and Respondent No.2 lived together for a

substantial period, discharged marital obligations, and held themselves out to society as husband and wife. During this period, it is alleged that the Petitioner received gold, silver, and cash from Respondent No.2 and her family members, and is alleged to have made further unlawful demands, accompanied by acts of harassment and cruelty, including an attempt to cause her death.

13.8. If the Petitioner's submission were to be accepted, it would produce a manifestly unjust and anomalous result — namely, that a man who deceives a woman into a void marriage by concealing his earlier marriage could then escape criminal liability under Section 498A merely because the relationship lacks legal validity. Such a position would not only defeat the purpose of the enactment but also encourage fraud and exploitation of women

under the guise of invalid marital relationships. The courts cannot countenance such a perverse consequence.

13.9. The term *"husband"* in Section 498A must be given a purposive and expansive construction**,** and the protection afforded by the provision cannot be denied merely on the technical ground of a void marriage. Where a man induces a woman to believe that she is lawfully married to him, and thereafter subjects her to cruelty, such a man cannot be permitted to evade criminal responsibility on the plea that no valid marriage existed in law.

13.10. The facts, as they stand, clearly show that the Petitioner and Respondent No.2 lived together in a relationship having all the trappings of a marital union. They cohabited, represented themselves as husband and wife, and performed domestic and social obligations

typically associated with marriage. The relationship thus falls squarely within what has been recognised in recent times as a "relationship in the nature of marriage", or colloquially known as a "Live-In" relationship, attracting the protective umbrella of Section 498A, provided the factual allegations satisfy the elements of "cruelty" as defined in the explanation to the section.

13.11. The argument that the relationship was merely a *live-in arrangement* is equally untenable in the present factual matrix. Even assuming that the relationship is not legally valid, the nature and substance of the relationship, rather than its formal legality, is determinative for the purpose of invoking Section 498A. Where parties live together as husband and wife, and the woman is subjected to cruelty or harassment in that relationship, she cannot be

left remediless merely because the man had concealed a subsisting marriage. The legislative intent behind Section 498A, being to suppress a social mischief, requires a liberal and purposive construction, more so when the man has married the woman, the woman is under the belief that she is legally married to the man, it was only the man who was aware that the marriage was void, which he seeks to take advantage of when prosecuted for a crime relating or in connection thereto.

13.12. Accordingly, I am of the considered view that the Petitioner cannot be permitted to defeat the operation of Section 498A IPC by invoking the validity of his own second marriage. Having induced Respondent No.2 into a marital relationship through deception, and having allegedly subjected her to cruelty and unlawful demands, the Petitioner stands on no higher

footing than a husband within the meaning and mischief of Section 498A IPC.

13.13. The test is not merely whether the marriage is valid in law, but whether the relationship has been abused in a manner that the section seeks to prevent. The mischief of the provision is attracted wherever a woman is subjected to cruelty by a man who stands in such a relationship as a husband, whether lawfully or deceitfully so.

13.14. In the result, I hold that the expression *"husband"* in Section 498A IPC is not confined to a man in a legally valid marriage, but extends to one who enters into a marital relationship which is void or voidable, as also to a live-in relationship which bears the attributes of marriage, so long as the essential ingredients of cruelty as defined in the explanation to the section are satisfied.

13.15. Whether the conduct of the Petitioner actually constitutes cruelty within the meaning of the Section is a matter that would necessarily have to be determined upon appreciation of evidence at the stage of trial.

13.16. In view of the above discussion, I answer Point No. 1 by holding that the provisions of Section 498A IPC are attracted even in cases of a void or voidable marriage, or a relationship in the nature of marriage, provided the ingredients of the offence are otherwise established.

14. **<u>ANSWER TO POINT NO.2:</u> - Whether prosecution could be continued in two different fora prosecuting the accused for the very same offence under Section 498A?**

14.1. The contention of Sri.Radhakrishna, learned counsel for the Petitioner is that the proceeding in CC No. 630/2019 pending before the II Additional Civil Judge (Jr. Division) and JMFC, Shivamogga, is that under Section 498A and there are further proceedings in CC No. 28129

of 2023 for offenses under section 498A, 504, 506, 307, 494 read with Section 149 of the IPC and Section 3 and 4 of the DP Act pending on the file of the 24th Additional Chief Metropolitan Magistrate, Bengaluru, and on that ground he submits that the offences in both the matters relating to Section 498A of the IPC prosecution of two proceedings, is not permissible.

14.2. There is substance in the said submission of Sri.Radhakrishna, inasmuch as it being categorical that the offence under Section 498A is being tried in both matters, there is a possibility of conflicting judgments being rendered by two different courts, and as such, in my considered opinion, both the matters would have to be tried together.

14.3. In that view of the matter, I answer point No.2 by holding that prosecution could not be continued in two different fora prosecuting the

accused for the very same offence under Section 498A. The proceedings in CC No. 630 of 2019, pending on the file of the III Additional Civil Judge (Jr.Division) and JMFC, Shivamogga, is transferred to the Court of the 24th Additional Chief Metropolitan Magistrate, Bengaluru to be tried along with CC No. 28129 of 2023.

15. **Answer to point No.3: Whether in the present case, the statement recorded by the Head Constable would have to stand the test as that applicable to a dying declaration?**

15.1. Many arguments have been made by the learned counsel for the Petitioner upon the alleged irregularities in the manner of recording the statement of Respondent No.2 and the alleged improper opening and maintenance of the Medico-Legal Case (MLC) register at the relevant point of time.

15.2. According to the Petitioner, the failure to record the statement in the prescribed form and the

alleged procedural lapses in registering the MLC case would render the said statement unreliable, and therefore, the proceedings founded thereon deserve to be quashed.

15.3. However, these contentions, in my considered view, pertain to matters of evidence and the manner of proof, which are to be tested during the course of trial and not in a petition under Section 482 Cr.P.C. The scope of jurisdiction under Section 482 is confined to examining whether the complaint and materials on record disclose a prima facie case — it does not extend to evaluating the evidentiary value or procedural regularity of documents or statements that form part of the investigative record.

15.4. Be that as it may, the principal basis of the Petitioner’s submission is that the statement

recorded from Respondent No.2 could not be treated as credible, since it was not recorded in the manner prescribed for a dying declaration, and that, had Respondent No.2 expired, the same would have been inadmissible for want of procedural compliance.

15.5. This argument, in my view, proceeds on a fundamental misconception of the law of evidence. The admissibility of a statement as a dying declaration arises only when the maker of the statement has died, as contemplated under Section 32(1) of the Indian Evidence Act, 1872**,** now Section 26(1) of the new Bharatiya Sakshya Adhiniyam (BSA), 2023, which carves out an exception to the rule against hearsay.

15.6. The rationale behind admitting a dying declaration is that when a person is at the verge of death, and there is no hope of

survival, the presumption of truthfulness attaches to the statement made.

15.7. In the present case, Respondent No.2 has survived; she continues to be alive and is actively prosecuting the matter. Consequently, the question of the statement being treated or tested as a dying declaration does not arise. The statement made by Respondent No.2 is, therefore, to be regarded as an ordinary statement of a witness or victim, forming part of the investigative process, and its probative value must be assessed during the course of trial in accordance with the normal rules of evidence.

15.8. It is well settled that when a witness or complainant survives and enters the witness box, the best evidence of the events is her own testimony before the Court, which can be

tested by cross-examination. The statement recorded during investigation, whether in the form of an MLC note or a recorded statement, merely constitutes a previous statement admissible for the purpose of corroboration, or for contradiction, subject to proof and relevancy. Its evidentiary value and reliability are matters for appreciation at trial, and cannot form the basis for quashing proceedings at the threshold.

15.9. Therefore, the test of admissibility applicable to a dying declaration cannot, by any stretch of reasoning, be invoked to invalidate or discredit the statement of a living witness or victim. To accept such an argument would amount to rewriting the well-established laws of Evidence and would lead to absurd consequences.

15.10. The attempt by Sri.A.N.Radhakrishna**,** learned counsel for the Petitioner, to import the rigorous requirements of a dying declaration — such as certification of fitness by a medical officer, or the manner of recording by a Magistrate — into the evaluation of a regular witness statement made by a living person, is therefore wholly misconceived in law. The evidentiary value of the said statement, if any, must be tested at trial through the process of examination and cross-examination, and not at this interlocutory stage.

15.11. Accordingly, I am of the considered view that the alleged procedural irregularities in recording the MLC or the statement of Respondent No.2 do not, by themselves, vitiate the proceedings or furnish any ground for quashing the prosecution.

15.12. In light of the above discussion, I answer Point No. 3 by holding that the statement recorded from Respondent No.2 would have to stand the test of admissibility and credibility applicable to an ordinary statement of a living witness, and not that applicable to a dying declaration. The principles governing dying declarations would become relevant only if the person making the statement were deceased.

15.13. Since Respondent No.2 is alive and has chosen to prosecute the matter, her statement shall be assessed in accordance with the normal rules of evidence during trial. The evidentiary worth or otherwise of such statement shall be determined by the Trial Court on the basis of the evidence adduced, without being influenced by any observation made herein.

16. **ANSWER TO POINT NO.4: What Order?**

16.1. In view of the above discussion and answers to Points 1 to 3, I do not find any merit in the petitions filed under Section 482 Cr.P.C. hence, I pass the following

ORDER

i. The petitions are accordingly ***dismissed***,

ii. The proceedings in CC No. 630 of 2019, pending on the file of the III Additional Civil Judge (Jr.Division) and JMFC, Shivamogga, is transferred to the Court of the 24th Additional Chief Metropolitan Magistrate, Bengaluru to be tried along with CC No. 28129 of 2023.

iii. The criminal proceedings initiated against the Petitioner shall proceed in accordance with law.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

LN
List No.: 2 Sl No.: 1