

**IN THE SUPREME COURT OF INDIA
(Order XXII Rule 2(1))
CRIMINAL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION
(Under Article 136 of the Constitution of India)**

**S.L.P. (Crl) No.of..2018
Prayer for interim relief**

POSITION OF PARTIES

Criminal Appeal No. 200340/2018

	Before the Trial Court	BEFORE THE HON'BLE HIGH COURT	THIS HON'BLE COURT
1 Manjunath G B S/o Basanagouda Age 64, Years, Occ: Retired Police Officer No.1235, 3 rd main Rd, New Tippasandra Bangalore Karnataka	Not a Party	Not a Party	a Not a party

Versus

1 State Of Karnataka Through Secretary Home Department, Government of Karnataka, Vidhanasoudha Ambedkar Veedhi Bengaluru Karnataka	Prosecution	Respondent	Contesting Respondent
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To

Hon'ble the Chief Justice of India
and Hon'ble Companion Judges of the
Supreme Court of India.

The Special Leave Petition of the Petitioner most respectfully showeth :-

1. The Petitioner above named respectfully submits this Petition seeking special leave to appeal against the impugned Judgement and Final order dated 20.11.2017 passed by the High Court of Karnataka Bangaluru Bench in Criminal Appeal No. 193/2012, whereby the Hon'ble High Court has partly allowed the appeal filed by the accused and passed certain adverse remarks and directions against the petitioner who was the investigating officer who conducted investigation in the case arising from Crime No. 252/2009 registered in Byppanhalli Police Station on 25.08.2009, the Court has wrongly assumed that there has been dilution of the charging provisions as mentioned in the First Information report dated 25.08.2009 and the charging provisions in the Charge Sheet filed after investigation on 28.10.2009, and being aggrieved by such adverse remarks and directions Petitioner is seeking permission to approach this Court.

1.A. That no LPA or W.A lies against this order before the High Court.

2. That the Petitioner is not concerned with the merits of the case hence not made the Petitioners No.1,2 and 3 before the High Court a party to the present proceedings.

2. QUESTIONS OF LAW:

A). Whether the hon'ble High Court is seriously in error in passing adverse remark against the petitioner who is a public servant and has done his duty as per the law and being the investigating officer of the case for a brief period has filed the Charge sheet after obtaining all due clearances under the appropriate provisions of law as the case after investigation was clearly made out to be a case of dowry death which is triable under S. 498 (A) 120-B, 302 r/w S. 34 IPC and U/Sec. 3 and 4 of the Dowry Prohibition Act, 1961 and there has been no dilution of charges in the Charge sheet and there is only submission of the charge sheet after fair investigation under the appropriate provisions of law?

B). Whether the hon'ble High Court is seriously in error in directing to take action U/Sec 196, 211, 218 of IPC and being subjected investigation as a part of a criminal case where he has been an investigating officer for a brief period?

C). Whether the Hon'ble High Court erred in not appreciating ratio of this Hon'ble this Court held in B R Lingappa & Anr V/s Shashikal J

Shetty & Ors that “we find this kind of direction to the Home Secretary sans hearing is totally impermissible in law”?

3. DECLARATION IN TERMS OF RULE 2(2):

The Petitioner states that no other petition seeking leave to appeal has been filed by them against the impugned Judgement and Final order dated 20.11.2017 passed by the Hon’ble High Court of Karnataka Bengaluru Bench in Criminal Appeal No. 193/2012.

4. DECLARATION IN TERMS OF RULE 4:

The Annexures P- 1 to produced along with the SLP are true copies of the pleadings/documents which formed part of the records of the case in the Court below against whose order the leave to appeal is sought for in this petition.

5. GROUND:-

- A. Because the hon’ble High Court is seriously in error in passing adverse remark against the petitioner in Paragraphs 25 of the Judgement, especially when the petitioner is a public servant and has done his duty as per the law and being the investigating officer of the case for a brief period has filed the Charge sheet under the appropriate provisions of law after obtaining all due clearances, as in the case after investigation the investigating officer was of the opinion that a case of dowry death which is triable under S. 498 (A), 120-B, 302 r/w S. 34 IPC and U/Sec. 3 and 4 of the Dowry Prohibition Act, 1961 is made out and not an offence under S. 302 r/w 34 IPC and there has been no dilution of charges in the

Charge sheet and further there is only submission of the charge sheet after fair investigation under the appropriate provisions of law?

- B. Because the High Court is seriously in error in directing to take action U/Sec 196, 211, 218 of IPC and being subjected investigation as a part of a criminal case where he has been an investigating officer for a brief period and has conducted the investigation from the date he has taken over charge and has obtained clearance from the prosecutor and also from the higher authorities for alteration of charges from S. 302 r/w 34 I.P.C as recorded in the First Information Report to S. 498 (A), 120 (B), r/w S. 34 I.P.C and S. 3 and 4 of the Dowry Prohibition Act, 1961.
- C. Because the Hon'ble High Court has erred in directing the concerned officer for criminal investigation and further directed departmental enquiry which cannot co-exist together. Hence the impugned order of suspension preceded without departmental enquiry by disciplinary authority is bad in law and hence impugned order needs interference.
- D. Because that the departmental proceedings consist of several stages viz., issuing of charges, opportunity of hearing in respect of the charges levelled against the civil servant; and a final order which is passed after the conclusion of the enquiry. Article 311(1) guarantees that 'no person who is a member of civil service shall be dismissed or removed by any authority. Thus, what is evident from this is that one has to initiate disciplinary proceedings for imposing punishment. But

Hon'ble High without any departmental enquiry, directed the authority to criminal investigation against the petitioner herein is de hors the settled principles of law.

- E. Because the Hon'ble High Court has erred in directing investigation is obligatory that holding of a regular departmental enquiry is a condition precedent for imposing any penalty against any civil servant. A rule which requires that an oral enquiry shall be held if the authority concerned so directs or if the charge-sheeted officer so desires is mandatory. This requirement is plainly based on consideration of natural justice and fair play. If the charge sheeted officer wants to lead his own evidence in support of his plea, it is essential that he should be given an opportunity to lead such evidence. The failure on the part of the enquiry officer to fix a date for recording such oral evidence and give due intimation to the official concerned is a clear violation of principles of natural justice and service jurisprudence the pre requisites and statutory requirement duo. The imposition of even a minor penalty must be preceded by an enquiry as prescribed by the rules. But in the present case nothing has been done but Hon'ble High Court without any enquiry passed the impugned order is not sustainable in the eye of law.
- F Because the Hon'ble High Court failed to appreciate that before inflicting any one of the major penalties the procedure prescribed for

A. That the High Court is seriously in error in passing adverse remark and direction against the petitioner in Paragraphs 25 of the Judgement, especially when the petitioner is a public servant and has done his duty as per the law and being the investigating officer of the case for a brief period has filed the Charge sheet under the appropriate provisions of law after obtaining all due clearances, as in the case after investigation the investigating officer was of the opinion that a case of dowry death which is triable under S. 498 (A), 120-B, 302 r/w S. 34 IPC and U/Sec. 3 and 4 of the Dowry Prohibition Act, 1961 is made out and not an offence under S. 302 r/w 34 IPC and there has been no dilution of charges in the Charge sheet, and if the petitioner is not granted interim protection of stay against the remarks and direction made under Paragraphs 25 of the impugned Judgement great prejudice shall be caused to the Petitioner thereby causing irreparable losses.

7. MAIN PRAYER:

In these circumstances it is most respectfully prayed that this Hon'ble Court may be pleased:

- (a) grant special leave to appeal against the Judgement and Final order dated 20.11.2017 passed by the High Court of Karnataka at Bengaluru Bench in Criminal Appeal No. 193/2012, and;

(b) Pass any such orders or further order/s that the Court may deem fit in the facts and circumstances of the present case.

8. INTERIM RELIEF:

(a) grant expartee stay of with regard to directions passed in paragraphs 25 of the Judgement and Final order dated 20.11.2017 passed by the High Court of Karnataka Bengaluru Bench in Criminal Appeal No. 193/2012, and;

(b) Pass any such orders or further order/s that the Court may deem fit in the facts and circumstances of the present case.

FOR WHICH ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY

(SUPREETA SHARANAGOUDA)
Advocate for petitioner

Drawn on: .09.2018

Filed On: .09.2018

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION NO. _____ OF 2018

IN THE MATTER OF :

Manjunath G B

...PETITIONER

VERSUS

The State of Karnataka

...RESPONDENT

CERTIFICATE

“Certified that the Special Leave Petition is confined only to the pleadings before the Court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the question of law raised in the Petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon’ble Court. This certificate is given on the

basis of the instructions given by the Petitioner/person authorised by the Petitioner whose Affidavit is filed in support of the S.L.P.”.

FILED BY

(SUPREETA SHARANAGOUDA)
Advocate for the Petitioner

.09.2018

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRMP No. _____ of 2018

in

SPECIAL LEAVE PETITION (CrI) NO. _____ OF 2018

IN THE MATTER OF :

Manjunath G B

...PETITIONER

VERSUS

The State of Karnataka

...RESPONDENT

APPLICATION FOR PERMISSION TO FILE SLP

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF PETITIONER ABOVE NAMED

1. The Petitioner above named respectfully submits this Petition seeking special leave to appeal against the impugned Judgement and Final order dated 20.11.2017 passed by the High Court of Karnataka Bangaluru Bench in Criminal Appeal No. 193/2012, whereby the High Court Partly allowed the appeal filed by the accused. It is submitted that the Petitioner does not seek to repeat the averments and the contents of the Special leave Petition be read as part of this petition for sake of brevity and economy.

2. It is submitted that the petitioner was not a party in the proceedings before the High Court. That the hon'ble High Court is seriously in error in passing adverse remark against the petitioner in Paragraphs 25 of the Judgement, especially when the petitioner is a public servant and has done his duty as per the law and being the investigating officer of the case for a brief period has filed the Charge sheet under the appropriate provisions of law after obtaining all due clearances, as in the case after investigation the investigating officer was of the opinion that a case of dowry death which is triable under S. 498 (A), 304(B) r/w S. 34 and S. 3 and 4 of the Dowry Prohibition Act, 1961 is made out and not an offence under S. 302 r/w 34 IPC and there has been no dilution of charges in the Charge sheet and further there is only submission of the charge sheet after fair investigation under the appropriate provisions of law.

3. That no hardship would be caused to the other side if the Application is allowed but serious hardship and irreparable loss would be caused to the Petitioner if the petition is not allowed.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

A. Permit the Petitioner to file the Special Leave Petition against the impugned Judgement and Final order dated 20.11.2017 passed by the High Court of Karnataka Bangalore Bench in Criminal Appeal No. 193/2012; and

B. Pass any other order or relief which this Hon'ble Court may deem fit and proper may be granted to the petitioner.

FOR WHICH ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL FOREVER PRAY.

Filed By

(SUPREETA SHARANAGOUDA)

Advocate for the Petitioner

New Delhi

Drawn on: .09.2018

Filed on : .9.2018

THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRMP No. _____ of 2018
in

SPECIAL LEAVE PETITION (Crl) NO. _____ OF 2018

IN THE MATTER OF :

Manjunath G B

...PETITIONER

VERSUS

The State of Karnataka

...RESPONDENT

APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF PETITIONER ABOVE NAMED

2. The Petitioner above named respectfully submits this Petition seeking special leave to appeal against the impugned Judgement and Final order dated 20.11.2017 passed by the hon'ble High Court of Karnataka Bangaluru Bench in Criminal Appeal No. 193/2012, whereby the hon'ble High Court Partly allowed the appeal filed by the accused. It is submitted that the Petitioner does not seek to repeat the averments and the contents of the

Special leave Petition be read as part of this petition for sake of brevity and economy.

2. It is submitted that the documents marked to the SLP as Annexure P- Annexure P- are in regional language Kannada and couldnot be translated by official Translator due to paucity of time.

3. That no hardship would be caused to the other side if the Application is allowed but serious hardship and irreparable loss would be caused to the Petitioner if the petition is not allowed.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

A. exempt the petitioners from filing official Translation of documents marked as Annexure P- and P- to the Special Leave Petition;and

B. Pass any other order or relief which this Hon'ble Court may deem fit and proper may be granted to the petitioner.

FOR WHICH ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL FOREVER PRAY.

Filed By

(SUPREETA SHARANAGOUDA)

Advocate for the Petitioner

New Delhi

Drawn on: .09.2018
Filed on : .09.2018

