

Case No. 5/19
APP

IN THE COURT OF THE SENIOR CIVIL JUDGE &
J.M.F.C., AT : YELBURGA.

BEFORE

Smt. Shubha,
B.A.L., LL.B.,
Senior Civil Judge & JMFC, Yelburga.

CC.No.5/2014

Dated this 29th day of July 2019

COMPLAINANT :

State through Kukanoor Police Station.

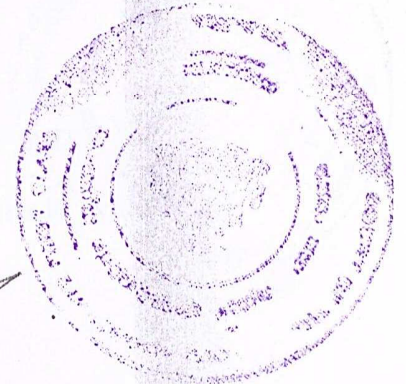
(By the A.P.P.)

Vs.

ACCUSED :

1. Kappetheppa S/o Kari Siddappa Kinnal, age: 45 years, Occ: Agril., R/o Komalpur.
2. Lalithavva W/o Kappetheppa Kinnal, Age: 40 years, Occ: Agril and House hold, R/o Komalpur.
3. Basappa S/o Buddappa Hallikeri (Kuri) Age: 40 years, Occ: Agril., R/o Komalpur.

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4. Fakeeravva W/o Basappa Hallikeri
(Kuri) Age: 35 years, Occ: Agril., and
House hold, R/o Komalpur.

(By Shri. N.K.J., Adv.,)

Date of commission of
offence : 02-09-2013

Date of report of offence : 02-09-2013

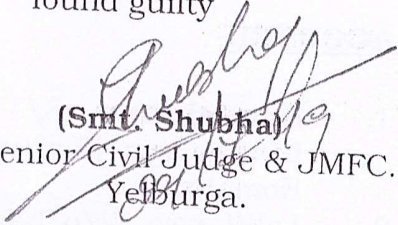
Name of the complainant : Smt. Lalitha Nayak.

Date of commencement
of evidence : 19-05-2017

Date of closing of evidence : 04-07-2019

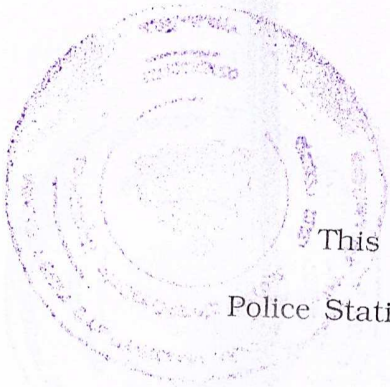
Offence complained of : U/sec. 10 and 11 of
Prohibition of Child
Marriage Act.

Opinion of Judge : Accused persons are
found guilty


(Smt. Shubha)
Senior Civil Judge & JMFC.,
Yelburga.

J U D G E M E N T

This is a charge sheet filed by the P.S.I., Kukanoor
Police Station against the accused persons for the offences

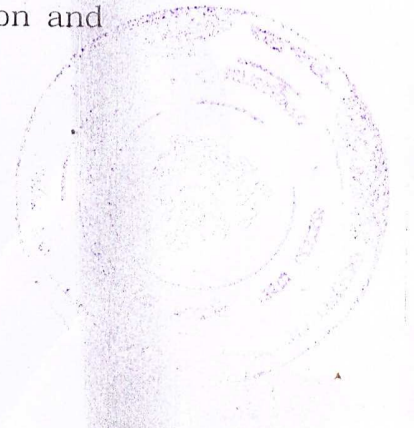


alleged U/sec.10 and 11 of Prohibition of Child Marriage Act 2006.

2. The allegations against the accused persons is that;

On 2-09-2013 at about 10.30 a.m., on receipt of credible information regarding performance of child marriage at Komalapur village, the CW-1 who was the then in-charge CDPO of Child Development Project Officer, Yelburga along with Child and Women Welfare Officers, i.e., CW-4 to 13 went to the house of accused No.3 and 4. Wherein they found the signs of performance of child marriage in the house of accused No.3 and 4. That, upon their enquiry it is came to their knowledge that, the accused No.1 to 4 have performed the marriage of a girl aged about 14 years by name Lalitha Hallikeri with a boy by name Ningappa aged about 17 years. That, the CW-1 after securing the school records of said Lalitha Hallikeri and Ningappa lodged the complaint against the accused persons in the Kukanoor police station. On the basis of the said complaint the investigating officer has conducted the investigation and

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filed the charge sheet against the accused persons for the offences punishable under section 10 and 11 of Prohibition of Child Marriage Act 2006.

3. In pursuance of the summons issued by this court the accused persons have appeared before the court and they are released on bail. After filing of the final report by the IO, cognizance was taken for the said offences. Thereafter all the prosecution papers furnished to the accused persons in compliance with Sec.207 of Cr.P.C and charge was read over but they pleaded not guilty and claimed to be tried.
4. Prosecution in all examined PW-1 to 11 and got marked Ex.P-1 to 9.
5. The statements of the accused persons as contemplated under section 313 of criminal procedure code was recorded, the accused persons have denied the incriminating evidence appeared against them and



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accused persons submitted that they have no defense evidence.

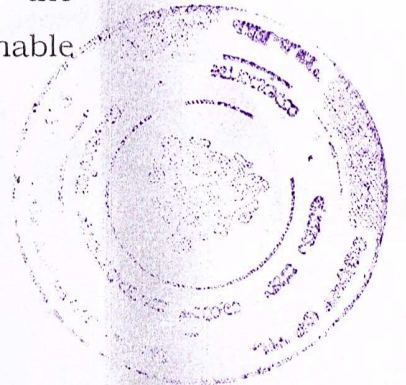
6. Heard, perused the materials on record the following points arise for my consideration.

POINTS

Point No. 1: Whether the prosecution proves beyond all reasonable doubt that, the accused No.1 to 4 performed the child marriage of minor boy Ningappa aged about 17 years with minor girl Lalitha Hallikeri on 2-9-2013 and thereby the accused persons have offence punishable under section 10 of Prohibition of Child Marriage Act 2006 ?

Point No.2 : Whether the prosecution proves beyond all the reasonable doubt that, on the above said date time and place, the accused No.1 to 4 being the parents of minor boy Ningappa and minor girl Lalitha Hallikeri solemnized the child marriage of the said Ningappa and Lalitha Hallikeri in utter disrespect to the direction given by Child Welfare Committee Officers and thereby the accused persons have offence punishable

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under section 11 of Prohibition of Child Marriage Act 2006?

Point No.3: What order ?

7. For my finding to the above points are as under :

Point No.1	In the Affirmative.
Point No.2	In the Affirmative.
Point No.4	As per final order .

REASONS

8. **Point Nos.1 and 2 :-**

The offences alleged against the accused persons is under section 10 and 11 of Prohibition of Child Marriage Act 2006. In order to prove the guilt on the part of the accused persons the prosecution has examined totally 11 witnesses.

9. In this case, the accused No.1 and 2 are the parents of minor boy Ningappa Kinnal who was aged about 17 years as on the date of marriage. The accused No.3 and 4 are the parents of minor girl Lalitha Hallikeri aged about 14 years at the time of child marriage. The contention of



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the prosecution is that, on 2-9-2013 at about 10.30 a.m. the CDPO of Yelburga has received a information that child marriage is being performed at Komalapur village. That immediately she visited the Komalapur village along with CW-4 to 13 and insisted the parents of bride and bride groom to produce the child to the child welfare committee but accused persons have refused to hand over the child to them. Thereafter they have forced the parents to hand over the minor child to them. That in the initial stage they were having the information only with regard to minor girl Lalitha Hallikeri but after visiting the Komalapur they learnt that even the boy with whom they were performing the marriage of Lalitha Hallikeri was also a minor at the time of the marriage. That, when the child welfare committee officers have visited the Komalapur village they found some of the rituals performed in the said place and they got confirmation that child marriage was performed in the said spot. Therefore after getting the school record of said Lalitha Hallikeri and Ningappa, the

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CW-1 has lodged the complaint against the accused persons.

10. In this case, the CW-1 Lalitha Nayak who is the then CDPO of Yelburga is the complainant who has lodged the complaint as per Ex.P-1. The CW-1 is examined as PW-1. The PW-1 in her evidence deposed that, on 2-9-2013 at about 10.30 a.m. she has received information regarding performance of child marriage at Komalpur village. That, immediately she went to Komalpur village along with police, District Welfare Officer, Tahsildar, Deputy Tahsildar and other Revenue Officers.

11. The PW-1 has clearly deposed that, after visiting the house of accused No.3 and 4 they have insisted the parents of minor girl i.e. accused No.3 and 4 to hand over the said child to their custody but accused No.3 and 4 have not given the custody of the said child. Therefore, they have to forcefully take the minor girl with them. That, thereafter they got information that the said girl is

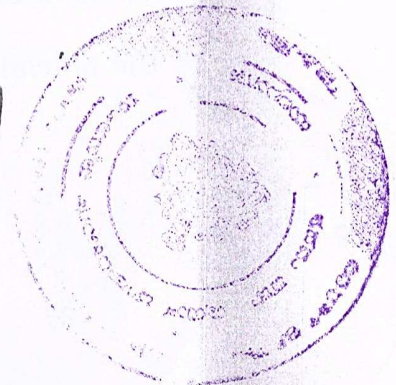


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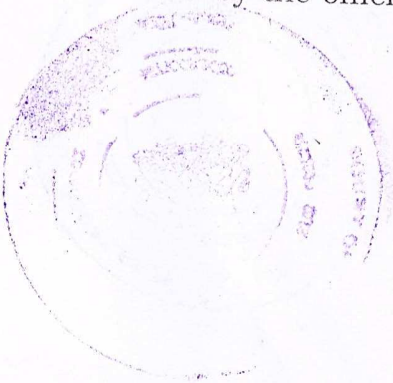
studying in 8th standard at the time of marriage. Thereafter they secured the date of birth particulars of the said child from the school where in it is came to their knowledge that date of birth of the said girl is 25-07-2000 and date of birth of the boy was 30-06-1996.

12. The perusal of the school certificate issued by the Head Master of Government Higher Primary School, Komalpur Yelburga taluk shows that, at the time of said her child marriage she was aged about 13 year 3 months 6 days. At the time of said marriage the boy was aged about 17 year 02 months 03 days. Therefore by perusal of the Ex.P-4 and 5 it is very clear that, as on the 2-9-2013 both Lalitha and Ningappa were minors. The said Lalitha has not attained the age of majority i.e., 18 years. and even the Ningappa had also not attained the age of majority i.e., 21 years of age which is fixed for the boy to get married.

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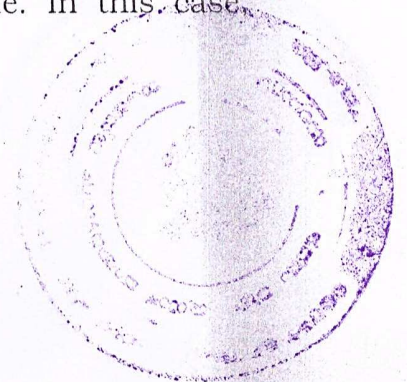
13. In order to prove the said marriage the prosecution has produced the marriage invitation card marked as Ex.P.2. It is very pertinent to note here that, the learned advocate for the accused has suggested to the PW-1, 5 that the said marriage invitation card is relating to the marriage of Hanumathappa and Netravathi. Therefore by making such a suggestion to the witnesses fact of marriage is admitted by the accused persons. In this case, the learned advocate for the accused has admitted that, the said Ex.P-2 is a marriage invitation card of Hanumanthappa and Netravathi. When such suggestion is made on behalf of the accused side, the contents of the whole documents is deemed to be admitted. In the Ex.P-2 it is mentioned that on the very same day a marriage of Nethravathi and Lalitha is to be preformed. In this case, it is suggested to PW-1, 4 and 5 that on the said date mass marriages was being performed through the Basaveshwar Temple in view of Basava Jayanthi. Therefore, in order to prove the marriage is concerned, there is a clear evidence by the official witnesses and even there is a admission by



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the accused side. It is suggested to the PW-1, 4 and 5 that since there was a marriage of the brother of Ningappa, the said Lalitha and Ningappa were dressed like a bride and bride groom and these child welfare officers have presumed that child marriage was solemnized. But the Ex.P-2 shows that, on the said date there was a marriage of Hanumanthappa and Netravathi. The said Netravathi and Lalitha are not own sisters. Nowhere it is suggested to the witnesses that both are direct sisters. Under such circumstances, why the said Lalitha attended the said marriage has to be explained by the accused persons only. Moreover, the names of relatives are mentioned in the marriage invitation card at the bottom line. by stating that they are also inviting all the persons to the marriage but the perusal of the Ex.P-2 clearly shows that, the name of Ningappa and Lalitha is mentioned in the middle portion and it clearly shows that, the name of Ningappa and Lalitha is clearly mentioned as bride and bride groom. Therefore, the said defence taken by the learned advocate for the accused is not at all sustainable. In this case,

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during the argument the learned advocate for the accused argued that, the Ex.P-2 is a created document but no such suggestion is made to any of the witnesses.

14. In this case, the PW-4 Shivalila Honnur Probationary Officer of District Child Welfare Committee, Koppal, PW-5 Harish, Co-ordinator Unisef, PW-6 H.P. Jagadeesh Retired CDPO of Koppal, PW-9 Gurubasappa Police Constable Kukanoor police station have clearly deposed with regard to the performance of the such marriage on the said date. All the above witnesses have visited the Komalpur village on receipt of credible information on the said date. The evidence of PW-4 clearly shows that, the accused persons have restrained them when they went to stop the child marriage. She has deposed that, the accused persons have even restrained the departmental jeep of PSI. The said evidence of the PW-4 clearly shows that in spite of advise given by the child welfare committee officers these accused persons have

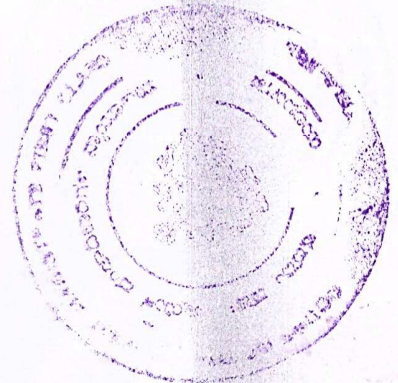


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solemnized the child marriage in utter disregard to the law of the land.

15. In this case, PW-7 Mudukappa, PW-8 Irappa are the alleged eye witnesses. Both the above witnesses have totally turned hostile to the prosecution case. It is quite natural that, the independent eye witnesses will not support the prosecution case. In fact this type of evil practice are more in this part of the state. The child welfare committee officers have to face lot of resistance by the parents of the bride and bride groom as well as villagers when they have to stop the child marriage. Even though Child Welfare Committee is constantly trying to convince the parents that, the childhood of person is precious and on such attaining the age majority any thing may be given to it like job, house, husband/wife, but what cannot be get back is its precious child hood but the parents of the child and villagers will not be in position to hear any thing. Off course the poverty may be a reason for solemnization of child marriages but the child marriages

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is a gross violation of human rights of the child depriving her of opportunity and facilities to develop in a healthy manner to obtain education and to lead a life of freedom and dignity. In this case, these accused persons have tried to perform the marriage of a girl who was still studying 8th standard. It is nothing but violation of such child right. Merely because independent witnesses have not supported the prosecution case does not mean that, the allegation against the accused persons is not proved. The child welfare committee officer who are more concerned with the child rights of the daughter of the accused No.3 and 4 have advised the accused persons not to perform the child marriage but in spite of the direction these accused persons have performed marriage of said Lalitha and Ningappa. The accused No.1 and 2 have performed marriage of their minor son with the minor daughter of accused No.3 and 4. There is a clear commission of offences by accused No.1 to 4.



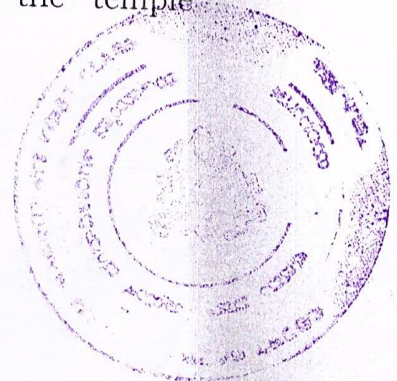
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16. In this case, PW-2 and 3 are the spot panchanam witnesses. Both the above witnesses have turned hostile in their chief examination but PW-2 during the cross examination clearly deposed that, the police have conducted the spot panchanama, since, there was a child marriage performed in their village.

17. In this case, the PW-1, 4 and 5 have clearly deposed in their evidence that, minor girl Lalitha was dressed like a bride by putting Mehandi to her hands and minor boy Ningappa also dressed like a bride groom. The witnesses have deposed with regard to rituals performed in this part of area at the time of the marriage. Therefore, this evidence clearly shows that, these accused persons have performed child marriage.

18. In this case, the PW-4 has clearly deposed in her cross examination that, since the said marriage was a child marriage accused persons have not have furnished particulars of bride and bride groom to the temple.

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committee. The above evidence of PW-4 clearly shows that, how these kind of law breakers utilizes the practice of mass marriages to perform this kind of child marriage. Therefore all temples which conduct the mass marriage should take the particulars of the bride and bride groom. Otherwise this kind of child marriage will be performed by this type of persons. In spite of legal aid awareness program by Legal Service Authority and also by concerned Child Welfare Committee the child marriages are not stopped. In this case, the above officials have clearly deposed with regard to the performance of child marriage by accused No.1 to 4.

19. The PW-10 H. Gurubasavaraj who was then PSI of Kukanoor police station has deposed with regard to registering of FIR, recording of statement of witnesses and deposed accordingly in his chief examination.

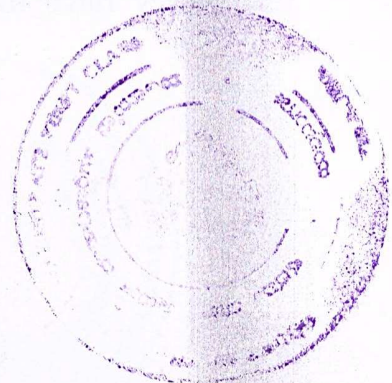
20. PW-11 Vishwanath Hiregoudar is the then PSI who has filed the charge sheet against the accused persons



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and deposed that, he has received the school records of the minor girl and boy. In this case, it is suggested to the PW-11 that he has not taken the statement of the Head Master. But it is very pertinent to note here that, the prosecution has furnished the Ex.P-4 and 5 which are the documents issued by the Head Master show that, date of birth of minor girl and boy. If relay it is the contention of the accused persons that, the date of birth shown in the said document is not correct, the accused persons could have produced any contra documents to disprove the same. But in this case, no such documents are produced by the accused persons. The perusal of these documents clearly shows that, the said bride and bride groom were minors at the time of said marriage. Therefore, these accused persons have committed offences of performance of child marriage as provided under section 10 and 11 prohibition of child marriage Act 2006. Hence I answered point no.1 and 2 in the affirmative.

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21. **Point No.3 :-** For my findings on the above points I proceed to pass the following:

ORDER

Acting under Section 255(2) of Criminal Procedure Code, the accused No. 1 to 4 are found guilty for the offences punishable under sections 10 and 11 of Prohibition of Child Marriage Act-2006.

The accused No.1 and 3 are hereby convicted for the offences punishable Under Section 10 of Prohibition of Child Marriage Act-2006. The accused No. 1 and 3 are hereby sentenced to undergo rigorous imprisonment for two (2) years and they shall pay a fine of Rs.10,000/- each. In default to pay the fine, they shall undergo simple imprisonment for one (1) month.

The accused No.2 and 4 are hereby convicted for the offences punishable Under Section 10 of Prohibition of Child Marriage Act-2006. The accused No. 2 and 4 are hereby sentenced to undergo simple imprisonment for two (2) years and they have to pay a fine of Rs.10,000/- each. In



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ANNEXURE**List of witnesses examined on behalf of the prosecution :**

PW-1	Lalitha Nayak.
PW-2	Siddayya.
PW-3	Mudiyappa.
PW-4	Shivalila Honnur.
PW-5	Harish.
PW-6	H.P. Jagadish.
PW-7	Mudakappa.
PW-8	Erappa.
PW-9	Gurubasappa.
PW-10	H. Gurubasavaraja.
PW-11	Vishwanath Hiregoudar.

List of documents marked on behalf of the prosecution:

Ex.P-1.	Complaint.
Ex.P-1(a)	Signature of PW-1.
Ex.P-1(b)	Signature of PW-10.
Ex.P-2	Wedding Card.
Ex.P-3	Letter given by CDPO, Yelburga.
Ex.P-3(a)	Signature of PW-1.
Ex.P-3(b)	Signature of PW-11.
Ex.P-4	Attested Birth Certificate of Lalitha.
Ex.P-5	Attested Birth Certificate of Ningappa.



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Ex.P-6	Panchanama
Ex.P-6(a)	Signature of PW-2.
Ex.P-6(b)	Signature of PW-3.
Ex.P-6(c)	Signature of PW-10.
Ex.P-7	Statement of PW-7.
Ex.P-8	Statement of PW-8.
Ex.P-9	FIR
Ex.P-9(a)	Signature of PW-10.

List of witnesses examined on behalf of the accused :

-----NIL-----

List of documents marked on behalf of the accused :

-----NIL-----

List of material objects marked :

-----NIL-----

(Smt. Shubha)
Senior Civil Judge & JMFC.,
Yelburgal

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Civil Judge (Sr.Dn.) & JMFC
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