

THE HON'BLE MRS JUSTICE ANIS
CRIMINAL PETITION NO.8672 of 2012

ORDER:

This criminal petition is filed by the petitioners/A.2 to A.4 under Section 482 Cr.P.C., to quash the proceedings in C.C.No.35 of 2011 on the file of the Judicial Magistrate of First Class, Vayalpad, Chittoor District, for the alleged offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

The case of the prosecution in brief is that the marriage of the 2nd respondent was celebrated with A.1 on 26.07.2009 at Sri Chodeswari Temple Kalyanamandapam situated in Neerugattuvaripalle, Madanapalle town under the supervision of A.2 and A.3, as A.1 is their domestic son. At the time of marriage, the parents of the 2nd respondent gave 600 grams of gold jewels and Rs.6,00,000/- cash to A.1 for marriage expenses. After the marriage, the 2nd respondent-wife joined with her husband-A.1 and went to Bangalore. Thereafter, the 2nd petitioner-A.3 came to Bangalore City and stayed with them. It is alleged that A.1 developed illegal intimacy with the 2nd petitioner-A.3 and on observing them, when the 2nd respondent questioned A.1 about their illegal contacts he informed her that they have illegal contacts since long time. In spite of her requests, her husband did not change his attitude. Unable to bear the physical and mental harassment she went to her matrimonial house and revealed the facts to the matrimonial parents. The elders tried to pacify the matter between the parties but in vain. A.1 with active connivance of the petitioners/A.2 to A.4 again demanded to get additional dowry. In spite of elders interference A.1 did not change his attitude and continuously demanded additional dowry. Left with no other option, the 2nd respondent lodged the complaint with the police and the same was registered as a case in Crime No.8 of 2011 on the file of Vayalpad

Police Station. The Investigating Officer after investigating the case, filed charge sheet before the Judicial Magistrate of First Class, Vayalpad and the same was numbered as C.C.No.35 of 2011.

Learned counsel for the petitioners argued that the petitioners are Accused Nos.2 to 4 and they are not related to A.1 and they never harassed the 2nd respondent at any time. There is no evidence on record that A.1 had illegal intimacy with the 2nd petitioner and the petitioners were living with A.1. Pendency of proceedings before the Judicial Magistrate of First Class, Rayalpad in C.C.No.35 of 2011 is only abuse of process of law and prayed this Court to quash the proceedings in C.C.No.35 of 2011.

Though notice sent to the 2nd respondent is served, no appears for the 2nd respondent and no representation is made.

The learned Additional Public Prosecutor argued that after receiving the complaint from the de facto complainant-2nd respondent the same was registered as Crime No.8 of 2011 of Rayalpad Police Station and the police after investigation, filed charge sheet against the petitioners and A.1 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. After conducting the trial only the facts will come out and therefore the pendency of C.C.No.35 of 2011 does not amount to abuse of process of law and prayed to dismiss the petition.

Now the point for consideration is – whether the petitioner is entitled to quash the proceedings in C.C.No.35 of 2011 on the file of the Judicial Magistrate of First Class, Rayalpad, Chittoor District, as prayed for?

There is no dispute that the 2nd respondent-de fact complainant gave a complaint to the police against the petitioners and A.1 and the same was registered as Crime No.8 of 2011 and the Investigating Officer after completion of investigation filed charge sheet into the Court against the petitioners and A.1 for the offences punishable under

Section 498-A and Sections 3 and 4 of the Dowry Prohibition Act. The same was taken on file as C.C.No.35 of 2011 by the Judicial Magistrate of First Class, Rayalpad, Chittoor District.

The main contention of the learned counsel for the petitioners is that the petitioners are no way related to A.1, who is the husband of the 2nd respondent-de facto complainant and Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act have no application to the facts of the case and the allegations made against the petitioners are balled allegations without any proof. The learned counsel relied on the decision of the Apex Court in **U. Suvetha v. State rep. by Inspector of Police and anr.**^[1], wherein Hon'ble Apex Court at paragraph Nos.12 and 18 held as under.

“12. In the absence of any statutory definition, the term ‘relative’ must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word ‘relative’ would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption.

The word ‘relative’ has been defined in P. Ramanatha Aiyar Advanced Law Lexicon – Volume 4, 3rd Edition as under:-

“Relative, “RELATIVE” includes any person related by blood, marriage or adoption. (Lunacy Act).

18. By no stretch of imagination a girl friend or even a concubine in an etymological sense would be a ‘relative’. The word ‘relative’ brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.”

A perusal of the complaint and 161 Cr.P.C. statement of de facto complainant would show that she has not stated that the petitioners are blood relatives of A.1. Further she has not explained her relationship with the petitioners. The only question is that A.1 is having

illegal intimacy with the 2nd petitioner herein and the petitioners harassed the 2nd respondent. Even in the charge sheet, the investigating officer has not mentioned the relation ship of the petitioners with A.1. It is also not mentioned in the charge sheet or 161 Cr.P.C. statement of PW.1 that the petitioners are related to her by blood, marriage or adoption. On the other hand, the contention of the petitioners is that they are no way related to A.1 i.e., husband of the 2nd respondent. Therefore, Section 498-A IPC and Section 3 and 4 of the Dowry Prohibition Act have no application, and hence pendency of proceedings in C.C.No.35 of 2011 on the file of the Judicial Magistrate of First Class, Vayalpad, Chittoor District, is amounts to abuse of process law.

Since the complaint as well as the charge sheet and 161 Cr.P.C. statement of the 2nd respondent do not contain the relation ship of the petitioners with A.1, and having regard to the law laid down by the Apex Court, the Criminal Petition is allowed and the proceedings in C.C.No.35 of 2011 on the file of the Judicial Magistrate of First Class, Vayalpad, Chittoor District for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act are quashed against the petitioners/A.2 to A.4. In so far as A.1 is concerned the trial may go on.

Accordingly the Criminal Petition is allowed. As a sequel, miscellaneous petitions, if any, shall stand closed.

JUSTICE ANIS.

17th March, 2015

[\[1\]](#) AIR 2009 SC (Supp) 1451