

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.951 of 2011

Between:

Mudanur Ananthaiah and 2 others

..... PETITIONERS/A2 to A4

AND

The State of A.P, rep.by its
Public Prosecutor and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.951 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.238 of 2010 on the file of the Judicial Magistrate of First Class, Nandyal.

2. Heard the learned counsel appearing for the petitioners/A2 to A4 and the learned Additional Public Prosecutor, representing the State.

3. Basing on the complaint of the 2nd respondent herein, which was forwarded by the learned Magistrate under Section 156(3) Cr.P.C, the police registered a case against the petitioners/A2 to A4 and non-

petitioner/A1 under Section 498A IPC. The learned Magistrate has taken cognizance of the same in C.C.No.238 of 2010.

4. The case arose out of a private complaint filed by the 2nd respondent, who is the father of Sailaja @ Sunitha who was married with the non-petitioner/A1 on 19.05.1996. The allegations are that the non-petitioner/A1 along with others have subjected the wife Sailaja to harassment. After referring various instances, ultimately it is mentioned that the wife, unable to bear the harassment, came down to the *de facto* complainant/2nd respondent-father and was living with him. Subsequently the wife Sailaja was affected with dreaded disease of cancer and ultimately succumbed to it on 07.12.2005. The deceased daughter Sailaja and non-petitioner/A1 had two children.

5. The contention of the learned counsel for the petitioners/A2 to A4, who are father, mother and sister-in-law of the non-petitioner/A1 is that a plain reading of the complaint coupled with the sworn statements recorded by the learned Magistrate during course of enquiry do not at all show even a single instance of harassment or treating the wife cruelly on the part of the petitioners/A2 to A4 so as to prosecute them for the offence punishable under Section 498A IPC. In support of this contention, the learned counsel has taken me to the contents of the complaint as well as the sworn statements. By relying upon various authorities of this Court and the Apex Court, the learned counsel submits that the contents of the complaint do not make out any ingredients whatsoever against the petitioners/A2 to A4 and hence they cannot be subjected to trial and consequently, they are entitled to be discharged and proceedings be quashed.

6. I have gone through the entire complaint and also the sworn statements recorded by the learned Magistrate. The facts that are emerged that on different dates, which are mentioned, the non-petitioner/A1 subjected the wife Sailaja to harassment both mentally and physically to meet his unlawful demand of additional dowry and other

requirements. There is absolutely no whisper whatsoever made against the petitioners/A2 to A4 in the complaint with regard to harassment to wife in any manner. The *de facto* complainant/2nd respondent also referred to different proceedings initiated in between his deceased daughter Sailaja and the non-petitioner/A1.

7. In ***Geeta Mehrotra v. State of U.P.***^[1] the Apex Court, at paragraph-25, held as under:

“25.....If the FIR as it stands does not disclose specific allegation against the accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognizance of the offence alleged against the relatives of the main accused who are *prima facie* not found to have indulged in physical and mental torture of the complainant wife.....whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR *prima facie* discloses a case of over implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

8. In similar circumstances, following another decision of the Apex Court in ***Kans Raj v. State of Punjab***^[2], learned single Judge of this Court in ***Atluri Ravindra v. State of A.P.***^[3] held that in view of non-mentioning of any specific instances of harassment against the petitioners and thereby being no *prima facie* case to prosecute them, the proceedings against them are liable to be quashed.

9. As already stated, the entire allegations made in the complaint and the other material placed by the complainant before the court discloses the acts of omissions and commissions on the part of the non-

petitioner/husband/A1. Absolutely there is no specific instance against the petitioners/A2 to A4 in so far as the allegation of subjecting the wife to harassment is concerned.

10. Under those circumstances, I feel that continuance of further proceedings insofar these petitioners/A2 to A4 are concerned in C.C.No.238 of 2010 on the file of the Judicial Magistrate of First Class, Nandyal, is nothing, but abuse of process of law, and hence they are liable to quashed, and accordingly quashed.

11. The Criminal Petition is accordingly allowed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 25.06.2015

Dsr

[\[1\]](#) (2012) 10 SCC 741

[\[2\]](#) 2000(2) ALD (CrI.) 467

[\[3\]](#) 2006-ALT (CrI.)-3-82