

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**
+ Crl.P.No.7607 of 2015

% Dated 18.11.2015

-

Between:

Arshanapalli RambaiPetitioner/A.2

and

\$ 1. State of Telangana rep. by its

Public Prosecutor, High Court at Hyderabad

and another,

.... Respondents

-

! Counsel for the petitioner : Sri M.Ram Mohan Reddy,

^ Counsel for respondent No.1 : Public Prosecutor

Counsel for respondent No.2. : Sri Dadi Radhakrishna,

< GIST : ---

>HEAD NOTE : ---

? Cases referred: _____ :

-

[1] (2004) 8 SCC page 100

² 2010(1)ALT(Crl) 146 SC,

³ 2015(1) ALT(Crl)229(SC),

⁴ 2000(5) SCC 30

⁵ 2012 10 SCC 741

⁶ 2010(10) SCC 673

⁷ (2004) 2 ALD Crl.195

⁸ 2015(2) ALT(Crl) 336 SC

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7607 OF 2015

JUDGMENT:

The petitioner Smt. A.Rambai, the A.2 in C.C.No.213 of 2015 is no other than the mother-in-law of R.2 (the defacto-complainant Smt. K.Priya). On the report of the defacto-complainant dated 20.01.2013

the police II town, Godavari Khani registered Cr.No.11 of 2013 for the offences punishable u/s 498-A of I.P.C. and u/sec.3 and 4 of the Dowry Prohibition Act(for short, 'the D.P.Act') against the accused and filed final referred report subsequently and the Magistrate on the protest application of the defacto-complainant supra following the procedure u/s.200 to 204 r/w 190 of Cr.P.C. vide docket order dated 26.03.2015, with reference to the sworn statements of the defacto-complainant and two more persons, taken cognizance against the petitioner and her son-A.1(husband of the defacto-complainant). The petitioner is now impugning the said order taken cognizance seeking to quash the proceedings.

2. The factual background speaks that the petitioner's son by name A.Vasantha Babu and the defacto-complainant married on 09.11.2011 at Taj Hotel, Hyderabad, the defacto-complainant originally presented written report to the Inspector, Godavarikhani, dated 20.01.2013 against the petitioner and others stating that her permanent place is 8th incline colony, Godavarikhani, and she is a software engineer working in Bangalore. Earlier her training faculty by name A.Vasanth Babu(A.1) of Secunderabad and herself both loved each other and against will of her parents she married him on 09.11.2011 and stayed at the house of her in-laws at Hyderabad along with her husband for one month after that marriage and at the time of marriage what she earned of Rs.5,50,000/- and 8 tulas of gold she possessed, given to her husband as dowry, however in that period of one month stated supra, she was hurled with words of what she brought was no way sufficient that the couple later at Madras lead happy life for about two months and for Sankranti festival when they came to Hyderabad; where her husband, mother-in-law(quash petitioner) and sisters-in-law and brothers-in-law demanded and ill-

treated her to bring 2lakhs from her parents and otherwise, they won't allow her to lead life saying without payment of dowry she married Vasanth Babu.

3. Her further averments are that while she was later staying with her husband at Madras, he ill-treated her and unable to bear with his ill-treatment, she telephoned to her maternal uncle by name Suranjan, who along with his friends G.Ravichander Kumar, brought her and her husband to Hyderabad for talks however, the family members of her husband stated as it is their family affair and requires no interference and thereafter her husband aggravated the ill-treatment and unable to bear with she came to her uncle's house at Hyderabad and even thereafter he was teasing her and threatening to do away her by phone calls or e-mails and once he interacted saying he would commit suicide for which she rushed to him and but for about one week, he started harassing. It is further averred that she was transferred to Bangalore to where in the weekends, he was coming and ill-treating and she was even beaten by him in public at Bangalore, that he developed suspicion on her chastity and therefrom ill-treating and that ultimately unable to bear with his harassment, she came to her parents house at 8th incline colony and reported to take action against the petitioner and others which was registered as Cr.No.11/13 and police after investigation by examining as many as 12 witnesses viz., the defacto-complainant, her father and mother as L.Ws. 1 to 3, neighbours as L.Ws. 4 to 8 who could not state anything about any ill-treatment she meted out in the in-laws house and L.Ws. 9 and 10, no other than the B.Ravichander Kumar Advocate and P.Suranjan, the relatives of the defacto-complainant including her uncle who stated no ill-treatment but for the allegation of her husband was by suspecting her fidelity ill-treated her and

therefrom the police filed final report as false complaint vide dated 21.09.2013. It is therefrom on intimation about police referred report, she filed protest application before the learned Magistrate, and the learned Magistrate taken cognizance of the case vide protest petition CrI.M.P.No.1474 of 2014 after recording her sworn statement along with the statements of her father and her maternal uncle P.Ws. 2 and 3. The order speaks "As seen from the record a since allegation even child out of the station deposed by P.W.1 to 3 against A.1 and A.2 only and hence report against A.3 to A.8 complied. Issue summons to A.1 and A.2 and call on 28.04.2015". The cognizance order of the Magistrate reproduced supra in italics is to say there is no sense in the order and it is nothing but a careless order, without even application of mind and not even by verified and corrected. As the summons were returned, N.B.W. was issued on 28.04.2015 by posting the matter by 28.10.2015 and the petitioner obtained anticipatory bail as can be seen from the quash petition averments.

4. On perusal of the protest application which shows that she presented complaint from which the crime registered and the final report in Cr.No.11 of 2013 filed by II town police, Godavari Khani, and from the final report intimated to her as mistake of fact, from that she filed the protest petition against said closure of the crime saying she is having strong grounds to contest, hence to reopen the above crime in the interest of justice.

5. Whereas, the sworn statement of the defacto-complainant-protest petitioner shows that their marriage was performed at Taj Hotel, Hyderabad on 09.11.2011, the couple shifted to Chennai and stayed at Chennai, where they were working as software engineers and for one month they lived happily at Chennai and for unknown reasons her husband(A.2) used to beat her and demand money,

many a time extracted money and he also abused her parents for unknown reasons and he humiliated her by pointing out that she could not provide him dowry and she could get 20lakhs dowry saying had he married another woman and many a time at Chennai he beat her helplessly with humiliation and even she put up everything with a hope of change in him but he did not and from unbearable harassment in April, 2012 she left his company and could contact to her parents to which place also A.2 even followed her and caused physical and mental harassment even at her home and during this period, she worked at Bangalore for some time and even to that place also her husband used to come and beat her in open public which she could not resist, she approached police and laid complaint but without proper investigation and examining her, police filed the final report supra as mistake of fact which causes injustice to her ,hence to take action.

6. On perusal of her very sworn statement, it no way speaks even a single sentence against her mother-in-law but for against her husband that too only at Chennai, during their stay and other place is when she was stayed at Bangalore in lieu of her job by his coming to Bangalore from Chennai. Even the P.Ws. 2 and 3 stated the same what P.W.3 uncle of defacto-complainant advised the defacto-complainant to inform the harassment of her husband to her mother-in-law but no use and when P.W.3 along with his friend Ravi Chander went to her mother-in-law (the quash petitioner herein) to settle the issue, she also demanded for 20 lakhs of additional dowry and supported her son(the husband of defacto-complainant) and a panchayat was conducted and both were consented to lead life at Chennai, but he did not stop his demanding additional dowry. In the sworn statement of P.W.3, her husband is referred wrongly as A.2 as

shown in protest petition in which, Station House Officer as A.1, mother-in-law as A.3 and one Praveen among the 4 others. So far as the sworn statement of father of defacto-complainant concerned, it no way improves from the statements of herself and her uncle. However, the learned Magistrate by passing the order unable to make out any offence sense even, since taken cognizance which is nothing but non-application of judicial mind from its perusal so far as quash petitioner-mother-in-law of the defacto-complainant concerned. In fact, the police referred report clearly speaks that there is nobody stated about any ill-treatment by mother-in-law or her other relatives but for the differences between the couple and that the husband of the defacto-complainant is a physically challenged and taking advantage of it and from the fact of defacto-complainant's family members are reluctant for continuing the marital relation of defato-complainant and her husband and want to get rid of, are choosing this path by filing the false report against him by involving the other family members also to bring them to terms and to get divorce if possible. It is thus referred the case as false in the final report. It is not in fact mistake of fact as claimed by the defacto-complainant in the protest application. Even the protest petition sought for reopen the referred report and take cognizance, the learned Magistrate while taking cognizance on the protest petition must also supposed to peruse the police final report with supporting material to arrive a just decision also with reference to the sworn statements on protest petition since recorded. When that discloses no case against the petitioner(A.2) leave about other family members of the husband of the defato-complainant(A.3 to A.8) but for at best against her husband(A.1) and the defacto-complainant-P.W.1's sworn statement only speaks to the complicity of her husband and apart from it, the entire harassment or ill-treatment

either taken place between the couple at Bangalore or at Chennai, as the case may be, and at best if at all in the in-laws place for any limited stay at Hyderabad during Sankranti as alleged in the original report so vaguely to say nothing to believe of any harassment by family members taken place even from the very FIR or police investigation or protest petition or the sworn statements, the cognizance taken even no cause of action taken place within the jurisdiction of Godavari Khani area for the learned Magistrate is on that ground alone liable to be quashed as held by the Apex Court in expression of **Y.Abraham Vs. Inspector of Police**^[1]. Further in **Neelu Chopra Vs. Bharati**^[2], **Kailash Chandra Agarwal Vs. State of UP**^[3], **Kansraj Vs. State of Punjab**^[4] and **Geeta Mehrotra Vs. State of Uttar Pradesh**^[5], and **Manoj Mahavirprasad Khaiton Vs. Ram Gopal Poddar**^[6] the Apex Court held that unless there are specific allegations in the complaint against other relatives of husband, no cognizance can be taken against the family members, more particularly from the tendency of making baseless allegations in roping them. Even a stray sentence as suffered harassment in the house of in-laws not sufficient as held by this Court while quashing from such a bald statement in **Shhaik Kusrouddin Vs. State of A.P.**^[7] against the in-laws and other relatives of the husband. It is also held by the latest expression of the Apex Court in **Taramanio Parakh Vs. State of M.P.**^[8] that if the allegations not make out a case, it can be held as abuse of process to continue the crime proceedings. It is further held that in matrimonial cases, Courts have to be cautious when omnibus allegations are made particularly against relatives of husband.

7. In the result, the Criminal Petition is allowed by quashing the

entire proceedings in C.C.No.213 of 2015 on the file of the learned Judl. Magistrate of First Class, Godavarikhani, Karimnagar district not only against the quash petitioner(A.2) but also against A.1(husband of the defacto-complainant) for no even part of cause of action for the offences taken place within the jurisdiction of the learned Magistrate. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Registry to mark copy of the order to the learned Magistrate for future care and guidance.

Dr. B. SIVA SANKARA RAO, J

Date:18-11-2015,

Note: L.R.copy to be marked.

B/o
VVR.

[\[1\]](#) (2004) 8 SCC page 100

[\[2\]](#) 2010(1)ALT(Crl) 146 SC,

[\[3\]](#) 2015(1) ALT(Crl)229(SC),

[\[4\]](#) 2000(5) SCC 30

[\[5\]](#) 2012 10 SCC 741

[\[6\]](#) 2010(10) SCC 673

[\[7\]](#) (2004) 2 ALD Crl.195

[\[8\]](#) 2015(2) ALT(Crl) 336 SC