

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.4691 OF 2015

ORDER:

This Criminal Petition is filed by the petitioners/A1 to A8 under Section 482 Cr.P.C seeking to quash F.I.R. No.10 of 2015, of Mahila Police Station, Anantapur, registered for the offence punishable under Sections 498-A, 494, 326, 506 r/w 34 I.P.C. and Section 4 of the Dowry Prohibition Act, which is an outcome of the report of the 2nd respondent/*de facto* complainant.

The averments in the quash petition are that it is an abuse of process by maintaining the false complaint by roping the accused; that A1 issued talak notice through Khazi cancelling the marriage between the *de facto* complainant and A1; that he also got issued notice dated 19.08.2014 to the *de facto* complainant through his advocate to come and join him otherwise initiate proceedings for legal action for her non-joining; that *de facto* complainant also got issued reply on 30.09.2014 through her advocate stating that she lived happily for one year after marriage while denying the other allegations and even thereafter she failed to join his company and A1 issued notice on 14.10.2014 again correcting the mistake in the year notice dated 19.08.2014 of instead mentioning four days as four years lived together from the date of marriage i.e., 25.12.2008 i.e., outcome of the oversight and in her reply also she admitted the same and she came forward with a version as if they lived happily for one year and the so called harassment, subsequently A1 instituted O.S.No.190 of 2014 on the file of Junior Civil Judge, Banaganapalle, for dissolution of marriage with *de facto* complainant and he being a Mohammedan, as per personal law when entitled to marry four wives, section 494 I.P.C. does not arise either against him or other petitioners. It is also his averments that *de facto* complainant filed written statement in O.S.No.190 of 2014 after several adjournments on 16.04.2015 and it is even no lapse of time; that thereafter she as a counter blast to it cause issued report in registering the crime with vengeance, as if there are acts of cruelty and intimidation or grievous hurt caused to her; that A1 made a complaint on 02.03.2015 to the Superintendent of Police, Anantapur, Kurnool, and Station House Officer, Bukkarayasamudram, for the threats from his father-in-law and against Mahaboob Basha, who is none other than own

sister's husband of *de facto* complainant working as D.S.P., S.C./S.T. cell and in-charge of Mahila Police Station, Anantapur for protection to his life and of his family members and instead of cause registering the report that was suppressed and the present crime i.e., 10 of 2015 is falsely cause laid to register at his instance and he is behind the complainant; that A1 also filed W.P.No.8751 of 2015 where there was a direction not to enforce with the impugned notice dated 25.03.2015 which is under extension and pending; that A1 made a representation on 04.05.2015 to the Station House Officer, Mahila Police Station, Anantapur about the incident took place and both A1 and *de facto* complainant exchanged notices and pendency of the said suit in contest and about filing of writ petition; however, the police are under the influence of brother-in-law of *de facto* complainant, want to take revenge with vengeance in cause registering F.I.R. and proceed further without basis. Hence, the proceedings are liable to be quashed.

Perused the report of *de facto* complainant running into three pages in registering the crime *prima facie* under section 494 I.P.C. has no application. Among the persons mentioned as A1 to A8 who are petitioners, A1 is husband, A2 is mother-in-law, A3 is sister-in-law of *de facto* complainant, A4 is husband of A3, A5 is also sister of A1, A6 is husband of A5, A7 is no other than brother of A1 and A8 is the so called second wife of A1. The averment insofar as A1 to A8 concerned as if she was beaten and necked out from the Anantapur open jail quarters. The marriage was performed undisputedly on 25.12.2008. Even taken they lived together for one year from her say in the reply upto December, 2009, the crime was registered in April, 2015. Even a perusal of her report dated 19.04.2015, there are no any specific dates of harassment for additional dowry by the accused but for at best the allegations are mainly against her husband and mother-in-law i.e., A1 and A2 of demanding for additional amount and abusing or beating. In fact, A3 to A7 are residents of Kurnool District and she says in the year 2010, A1 got job as a Deputy Jailor and after completion of his training worked in Chenchalguda Jail, Hyderabad and she asked him to take back to Hyderabad from Kurnool, which is her parents place where she was and so far as allegation against A3 to A7 concerned, it is not even mentioned any date of their demanding for additional dowry or threatening to perform marriage to A1 again much less at that point of time from roping in her report to the police. Even her averments show so called sending amounts by her brother

by name Shamshudeen, working in Tata Steel Company at Jamshedpoor is to the account of A1 by taking assurance to treat her well by A1. Even according to her, A1 was transferred to Anantapur in May, 2013 to open jail and he shifted his residence to Anantapur open Jail Quarters thereafter. It is not even her case that the other accused i.e., A3 to A7 in particular ever came and stayed with her husband much less at Anantapur to make any allegations of their privy to any acts. Even after the death of her mother, her husband did not visit her parents family to console and heed the words of *de facto* complainant. So far as A8 is concerned, she is not shown when she married A1. Now from the marriage what A1 says under personal law, a Mohammadin can marry upto four persons and it is not an offence under Section 494 I.P.C.

Having regard to the above, practically no case is made out against A3 to A7 but for at best against A1, A2 and A8 for the police to continue investigation of the F.I.R.

Having regard to the above, the proceedings relating to F.I.R. No.10 of 2015, dated 19.04.2015 on the file of Mahila Police Station, Anantapur, insofar as A3 to A7 are quashed for all the offences.

Insofar as A1, A2 and A8 are concerned, the offence under Section 494 I.P.C. is quashed. The police shall investigate so far as A1 and A2 for the remaining offences i.e., Sections 498-A, 326, 506 r/w 34 I.P.C. and Section 4 of the Dowry Prohibition Act.

Accordingly, this criminal petition is partly allowed.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:11-09-2015

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