

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.1 of 2012

ORDER:

1. This Criminal Petition is filed seeking to quash the proceedings against the petitioner in C.C.No.304 of 2009 on the file of the XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

2. The case of the prosecution in brief is as follows:

The de facto complainant-V.K.R. Sharma lodged a complaint stating as follows:

He performed the marriage of his daughter V. Geetha Sarvani with the petitioner, who is working as Software Engineer at Chicago, in USA. The daughter of the de facto complainant also worked near Chicago. After her marriage, she was transferred to Chicago and started her newly married life in November, 2006 and continued till March, 2007. It is alleged that the petitioner used to suspect the character of Geetha Sarvani and he used to ask deliberately whether she was having anyone other than he at her work place and outside. He used to abuse her in filthy language and he used to assault her and he necked her out on 30.3.2007. The petitioner used to throw meal plates and cell phone and he developed hatred and anger towards the said Geetha. At one time, after receiving her parents' calls, in highest temperament the petitioner threatened that he would commit suicide and make her responsible. At another time, he threatened that he would forge her signature, if she does not sign on the surety bond of his friend, for which she objected. He used to say that if he married another girl, he would have got huge amount as dowry. He demanded Rs.10,000/- as additional dowry for his own use and some more gold ornaments for his mother and sister. He used to take all income of the said Geetha. She had to borrow money on her credit card. The petitioner used to abuse her in filthy language when she could not call his parents. The petitioner and his wife-Geetha came to Hyderabad to

sort out some problems and the petitioner alone went to USA silently without taking his wife-Geetha and left her. It is learnt that the petitioner is planning to remarry. In spite of several requests, he refused to take her back to Chicago. Basing on the complaint, a case was registered. After completion of the investigation, charge sheet was filed against the petitioner and others and the same was numbered as C.C.No.304 of 2009.

3. Heard and perused the material available on record.

4. It is brought to the notice of this Court that on an earlier occasion, this Court quashed the proceedings against A2 and A3 in the above C.C. vide order dated 7th day of December, 2011 in CrI.P.No.9134 of 2009.

5. The grounds raised by the petitioner in this petition are as follows:

(i) As per the allegations made in the complaint, the offence took place in USA. Any of the alleged acts of cruelty or demand of dowry had not taken place in India. All the events took place in abroad. Therefore, the prosecution sanction under Section 188 Cr.P.C. is required.

(ii) The complaint was lodged by the father of the wife of the petitioner and the same is in the nature of hearsay.

(iii) The complainant is not an eye witness to any of such occurrence.

(iv) As per the provisions of Section 498-A IPC, the aggrieved person in the present case is the wife of the petitioner. She has not chosen to lodge any complaint.

(v) The petitioner filed a divorce case against his wife in USA and his wife contested the same and obtained divorce.

(vi) The Investigating Officer has not recorded the statement of the aggrieved person viz., wife of the petitioner herein. Even in the list

of witnesses furnished by the investigating officer, the name of the wife of the petitioner is not found place.

(vii) The investigating Officer proceeded on the basis of the statements made by the father and mother of the wife of the petitioner.

6. From the material on record, it is apparent that the wife of the petitioner used to work in USA prior to her marriage. Subsequent to her marriage also, she is working there. As rightly pointed out by the learned Counsel for the petitioner herein, irrespective of the fact whether the complaint was lodged by aggrieved person or her father under Section 198-A Cr.P.C., the fact remains undisputed is that both the parties viz., wife and husband i.e., the daughter of the complainant and the petitioner herein have been residing in USA, prior to their marriage and subsequent to their marriage, and thereby it warrants a prior sanction as contemplated under Section 188 Cr.P.C. so as to prosecute the petitioner herein. In the instant case, it is not in dispute that no such prior sanction has been obtained and thereby the very initiation of the proceedings in question becomes vitiated.

7. In the above circumstances, this Court is of the view that the continuation of the proceedings in the above case against the petitioner amounts to abuse of process of Courts and therefore, the same are liable to be quashed.

8. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner-A1 in C.C.No.304 of 2009 on the file of the XIII Additional Chief Metropolitan Magistrate, Hyderabad.

RAJA ELANGO, J

Dated:2.7.2015

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