

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

THURSDAY THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

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

CRIMINAL PETITION No.10068 of 2010

Between:

Yerram Reddi Venkata Subbamma and 4 others
..... PETITIONERS/A2 to A6

AND

Vara Padmaja and another
.....RESPONDENTS

The Court made the following:

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

CRIMINAL PETITION No.10068 of 2010

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in CC.No.279 of 2008 on the file of the Judicial Magistrate of First Class, Pulivendula, Kadapa District, registered for the offence under Section 498-A IPC and under section 3 & 4 of Dowry Prohibition Act.

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

3. The petitioners are A2 to A6 in the above said calendar case.

The non-petitioner/A1 is the husband of the 1st respondent/*de facto*

complainant Padmaja. The non-petitioner/A1 and the 1st respondent/*de facto* complainant Padmaja were married on 12.08.1998 and they had a son. The petitioner/A2 is the mother of A1, petitioners/A3 & A5 are the sisters of A1 and petitioners/A4 & A6 are their husbands.

4. The allegations in brief are that at the time of marriage, the parents of the 1st respondent/*de facto* complainant gave substantial dowry in the form of cash and gold. The couple lived happily for about a year. Thereafter, the non-petitioner/A1 on the instigation of the petitioner/A2 and others started harassing the 1st respondent/wife, demanding additional dowry. It is alleged that the non-petitioner/A1 did not even take proper care of the 1st respondent/wife when she was pregnant and ill. Even when the 1st respondent/wife was confined, nobody has taken proper care and on the other hand, the accused persons used to insist her to do all the household works, and even the maidservant was removed. When the 1st respondent/wife gave birth to a child, the non-petitioner/A1 came to the hospital, but having seen the child, did not even enquire about the health of the 1st respondent/wife. In the year 2002, certain notices were exchanged and mediations were held. From the year 2003 onwards, the 1st respondent/wife and the non-petitioner/A1 started living separately. However, the other accused, viz., the mother, sisters and brothers-in-law of the non-petitioner/husband/A1 used to visit the house now and then and instigate the non-petitioner/A1/husband to ill-treat the 1st respondent/wife for want of additional dowry. When there was a threat to the life of the 1st respondent/wife, she went to her parents' house and filed the present case.

5. The learned counsel for the petitioners/A2 to A6 contented that absolutely there are no allegations in so far as the petitioners/A2 to A6 are concerned. Vague and bald statements are made by the 1st respondent/complainant against the mother, sisters and brothers-in-law of the non-petitioner/A1/husband, and except for saying that they were

instigating the non-petitioner/A1/husband to ill-treat the 1st respondent/wife, there are no specific allegations against them. The learned counsel for the petitioner further submits that this is one of those several cases where all the family members of the non-petitioner/A1/husband, irrespective of fact of their residence, have been implicated by the 1st respondent/wife out of over anxiety, most probably, due to momentary anger in view of her problem in the matrimonial home.

6. The learned counsel for the petitioners/A2 to A6 has cited three decisions of the Hon'ble Supreme Court in support of the contention that when vague and bald allegations are made against parents, sisters and in-laws of the husband by an estranged wife, all further proceedings against such relations are liable to be quashed, in the absence of there being any allegations.

7. In ***Preeti Gupta v. State of Jharkhand***^[1] the Supreme Court has observed as under:

“It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including the Supreme Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of society. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. It is seen that a large number of such complaints are not even *bona fide* and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent.

To find out the truth is a Herculean task in a majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases.

The allegations of harassment by the husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant wife resided would have an entirely different complexion. Such allegations of the complainant are required to be scrutinized with great care and circumspection.

A serious re-look at Section 498-A is warranted by the legislature. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law."

8. In ***Geeta Mehrotra v State of U.P.***^[2] the Supreme Court made the following observations:

"20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kummari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included

in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

25. However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegations of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasize by highlighting is that, 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 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. It is the well settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing, especially in cases of matrimonial disputes 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 score arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

9. In ***Arnesh Kumar v. State of Bihar***^[3] the Apex Court held as

under:

“There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. “Crime in India 2012 Statistics” published by the National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence under Section 498-A IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depict that mother and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under the Penal Code. It accounts for 4.5% of total crimes committed under different sections of the Penal Code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A IPC is high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal.”

10. Bearing in mind the above principles and the guidelines laid down by the Apex Court, the case on hand has to be considered on its own facts.

11. The non-petitioner/A1 and the 1st respondent/*de facto* complainant were married in the year 1998 and they were blessed with a son, then a year thereafter, they started living separately away from the

remaining family members of the non-petitioner/A1. When several allegations are made against the non-petitioner/A1/husband, what is all that is alleged against the present petitioners/A2 to A6 is that they being mother, sisters and brothers-in-law of the non-petitioner/A1-husband, used to visit the house now and then and instigate the non-petitioner/A1-husband to subject the 1st respondent/wife to cruel treatment for additional dowry. Except for this allegation, there is nothing in so far as the present petitioners/A2 to A6 are concerned. Therefore, continuing further proceedings against the present petitioners/A2 to A6 will be misusing the process of criminal justice and will be subjecting the relations of the non-petitioner/A1-husband to face the trial for which there is no justification.

12. In view of the above, the Criminal Petition is allowed, the proceedings in CC.No.279 of 2008 on the file of the Judicial Magistrate of 005A First Class, Pulivendula, Kadapa District, in so far as the petitioners/A2 to A6 are concerned, are hereby quashed.

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

M.S.K.JAISWAL,J

Date: 03.09.2015

Dsr

[\[1\]](#) (2010) 7 SCC 667

[\[2\]](#) (2012) 10 SCC 741

[\[3\]](#) (2014) 8 SCC 273