

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION Nos.16234 AND 15849 of 2014

COMMON ORDER :

The Criminal Petitions are filed by the petitioners/ accused Nos.2 and 3, 4 to 6 under Section 482 Cr.P.C to quash the proceedings in C.C. No.971 of 2014 on the file of III Metropolitan Magistrate, Cyberabad at L.B Nagar where the learned Magistrate has taken cognizance for the offences punishable under Section 498-A IPC and Sections 3 & 4 of D.P Act, which is outcome of report of 1st respondent/ defacto complainant no other than wife of accused No.1 in Crime No.502 of 2014 of Uppal Police Station on 14.07.2014. It is from the report supra, the police having registered the crime after completion of investigation with reference to statements of six witnesses i.e., defacto complainant, her parents and neighbours, recorded by LW.7 and filed the final report for the offences supra and the learned Magistrate therefrom taken cognizance.

2) The contentions in the quash petitions are that the marriage of *defacto* complainant performed with accused No.1 undisputedly on 16.03.2008; It is the allegation of *defacto* complainant that her husband—accused No.1 was demanding for registering the house in his name by intensifying his harassment both physically and mentally from 26.04.2014 and prior to that, the other accused were also demanding for additional dowry from 25.07.2010 and when she was informing her husband—accused No.1, he assured to settle the dispute. It is the further contention of the quash petitioners that *defacto* complainant in fact has been residing separately as also averred by her in the DVC case, she filed under Sections 12, 18, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005); that the accused Nos.2 to

6 are no way concerned with day-to-day life of accused No.1 and defacto complainant, and the allegations against them are false, vague, baseless and intentionally she roped them to harass to have some wrongful gain if possible and in fact the 1st accused filed divorce case in O.P No.907 of 2014, which is pending against her in the Family Court, L.B Nagar since June, 2014 and it is after filing of the divorce petition, she engineered the false accusation in giving the report to police for registering the Crime to serve as a counter blast with after thought and even the allegation against the petitioners is a stray and sole incident on 25.07.2010 that they demanded for additional dowry and threatened her and for which she complained against them to her husband—accused No.1 and he assured to settle the dispute amicably. The said allegation is also perse false and baseless and she alleged even since prior to her husband was demanding and harassing to transfer house in his name. Now to make a ground in July, 2014 in her report dated 14.07.2014 after her husband filed the divorce OP in June, 2014, by also attributing the allegations against him of he demanded to register the house in his name on 26.04.2014 and later all these allegations against the petitioners attributed as happened on 25.07.2010. It is also the contention that the DVC case of her prior to June, 2014 itself shows, it is after thought false accusation even against her husband and other accused by abuse of process of law and the police after table investigation without application of mind and without referring to the material filed final report and the Court also did not consider the material in taking the cognizance and thereby the calendar case is liable to be quashed.

3) The 2nd respondent putforth appearance and after hearing both sides, there was an interim order passed on 27.02.2014 dispensing with the appearance of the accused Nos.2 to 6 before the

trial Court in the calendar case supra and after hearing the matter is reserved for orders. No doubt, it is the contention of the learned counsel for 2nd respondent/ defacto complainant that there is prima facie accusation against the petitioners and the police after investigation filed charge sheet and thereby, there is nothing to quash the calendar case proceedings.

4) Heard, perused the material on record particularly from the report of defacto complainant of SHO, Uppal, dated 14.07.2014 running in three pages that was received and registered as Crime on the same day.

5) The marriage of accused No.1 and the defacto complainant was performed on 16.03.2008 as per Hindu Law. According to her, her father has given dowry of Rs.15 lakhs in cash besides 40 tulas gold and Rs.80,000/- by cash to purchase bike in view of Diwali, that after marriage, she joined her husband in the family house at Boduppall and she had given that 40 tulas gold to her mother-in-law towards security purpose. After her marriage, she has given Rs.10,00,000/- to her husband in cash by getting from her parents and relatives as hand loan from her friends and self earnings towards completion of Boduppall Property. These allegations if taken true no case made out against the petitioners/ accused Nos.2 to 6 for nothing to say any dowry given to them or any dowry demanded by them, so also, against her husband and the amount what is paid by her father is invested in the property by her and with her husband. The alleged keeping by her to her mother-in-law for safe custody of her 40 tulas gold given to her at her marriage time by her father, besides no proof, even true is nothing as dowry demanded or received by any of the accused.

6) Coming to the further averments in the report, it was on

25.07.2010 at 8.30 pm her parents-in-law including her brothers-in-law and daughter-in-law threatened her with unparliamentary language and by insisting her to bring 20 lakhs from her parents and to sell the property in her name much less by threatened to do away her and her parents and allegedly her co-sister beat her and threatened to kill or at that time, her husband was at Bangalore and her-in-law poisoned the mind of her husband against her and her husband also insisted to go to her parents house and he would come to settle the disputes after reaching to Hyderabad and after he reaching Hyderabad, he stated that they can shift to rented premises. It was on 16.10.2010 her husband, parents and brothers have demolished the old house to construct new house at Warasiguda and shifted to rented house. It is her further averment that at that time, her father questioned of what was going, on her husband demanded cash and gold, if not, to register Boduppal property in his name. Later she came to know that the newly constructed house at Warasiguda was sold away and at that time her father demanded her husband—accused No.1 to bring cash and gold given at the time of marriage. In fact from what is stated supra, no jewellery given to her husband or in laws but to her and she stated the same later handed over by her to her mother-in-law for safe custody, if at all to believe. Thus, it is even a contradiction version. It is her averment that her husband beat her by reiterating the demand to execute sale deed transferring the Boduppal property in his name for her refusal to do say and she went to police station on 23.04.2012, however, the police did not respond. If so what prevented to send report by registered post, if true. It is her averment that her husband put a condition that her parents shall not come to their family house which she agreed. However, thereafter her husband daily coming under intoxication by spending his earnings with his friends and his parents and brothers also

supporting him to insist for transfer of the property in her name to the name of her husband and therefrom her husband causes harassment. If it is so, from that vague allegation, but for her husband and others cannot be made accused. The further averment is that on 26.04.2014 at about 10.30 am, her husband—accused No.1 brought knife and tried to kill her by demanding to sell the house and his friend K.Kiran Kumar also supported him and on that her husband threatened to give divorce for her not inclining to sell the house and she went to her parents house. If so, it is her husband that can be made liable. Her further allegation is that on that day, her father came and asked her husband and said Kiran Kumar and Srinivas Yadav joined hands with her husband and abused her and beat her and she along with her father came to Uppal police station and in the mean time, her husband stolen her signed cheque book, pass book, ATM card of SBH Uppal and other important documents and changed the password of Meeseva. Even from this, it is her husband the assailant. Later, her husband according to her that intensified the harassment physically and mentally and drained all her earnings without her permission for his lavish expenses and developing adverse attitude towards her and after that again he turned back to his previous life and got it cancelled mee-seva which was brought by her with a great concern to lead their happy marital life with her own earnings and he is hiring some anti social elements trying to kill her. It is the sum and substance of her accusation in the complaint, dated 14.07.2014. A perusal of the same no way makes out the case against these petitioners/ accused Nos.2 to 6 but for if at all against her husband as pointed out in the quash petition grounds. In this background, it is also important to go through the DVC case, so far as the incident occurred on 25.07.2010, it is averred from para No.7 that her-in-laws with the accused Nos.4 to 6 demanded to get Rs.20 lakhs from her parents else to sold away the Boduppal plot standing

in her name to fulfill that demand and they abused and threatened her to kill her parents and among them her co-sister beat her with lower case. Even to say, if she received any injury, there is no medical report regarding treatment much less in any private hospital. There are no exchange of any notices prior to that. It is needless to say the divorce petition filed by accused No.1—her husband was in June, 2014, under Section 13 of Hindu Marriage Act against her. It is subsequent to the crime registered by her on 14.07.2014 she filed the DVC in August, 2014.

7) It clearly indicates as pointed out by the learned counsel for the petitioners that A2 to A6 are roped without any basis by engineering the allegations out of spite and with grudge against them by adding criminal flavour, there is no worth allegation to continue the criminal proceedings against them for the penal consequences to sustain. Apart from the so-called incident dated 25.07.2000 is baseless to believe for which there is no whisper all through till the complaint on 14.07.2014 about four years later and there is no any worth allegation apart from it even to sustain the prosecution. Thus, it is a fit case to quash the proceedings against accused nos.2 to 6 herein as laid down by the Apex Court in ***Preeti vs State of Jharkhand***^[1].

8) Accordingly, the criminal petitions are allowed and all the proceedings relating to C.C. No.971 of 2014 on the file of III Metropolitan Magistrate, Cyberabad at L.B Nagar, so far as petitioners/ accused Nos.2 to 6 are concerned, hereby quashed. The bail bonds of the petitioners/ accused Nos.2 to 6, if any, shall stand cancelled.

9) Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 27.11.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:27.11.2015

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