

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.15443 of 2014

ORDER :

This Criminal Petition is filed by the petitioners/A-1 to A-3 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.507 of 2014 on the file of I Additional Judicial Magistrate of the First Class, Khammam which is the outcome of report by the 2nd respondent/defacto-complainant which was registered as Crime No.35 of 2014 of Women Police Station, Khammam for the offences punishable under Section 498-A I.P.C and Sections 3 and 4 of the Dowry Prohibition Act.

2) The 1st petitioner/A-1 is the husband of the 2nd respondent/defacto-complainant, 2nd petitioner/A-2 is the mother and the 3rd petitioner/A-3 is the father of the 1st petitioner. The marriage of the 1st petitioner with the 2nd respondent was performed on 1st November, 2012 at Khammam and both were working at different places in U.S.A. The charge sheet averments show that at the time of marriage the parents of the 2nd respondent gave Rs.20.00 lakhs cash, gold ornaments worth Rs.20.00 lakhs and house plot worth Rs.60.00 lakhs to her in-laws ie., petitioners 2 and 3/A-2 and A-3, that after their marriage, when they were returning from Tirupathi, the 1st petitioner/A-1 informed her that he does not believe in arranged marriages and enjoys with other girls whenever he gets opportunity, that he had made efforts to shoot their first night through a cell phone which she resisted him, harassed her physically and mentally subjecting her to cruelty, that he expressed that he did not get sufficient dowry and demanded to

sell the house plot which her parents had given to them, that on 25.11.2012 they went to U.S.A where she secured a job, but her husband used to stay at his work place and used to visit her once in 15 days, that further forced her to leave the job and to stop her education efforts, that other accused visited her at U.S.A where they stayed with her for about one month where all the accused harassed her physically and mentally, subjecting her to cruelty, they threatened her if she does not resign to her job and stop educational efforts her husband will divorce her and marry another girl, that in September, 2013 all accused had dropped her at her parents and went away, since then they did not turn up to take her back to restore conjugal life, that in April 2014 1st accused had issued a legal notice seeking divorce, that when contacted petitioners 2 and 3/A-2 and A-3, they informed that their elder daughter-in-law had brought huge dowry and they had given less amount, that their son is not interested in her, nothing left over for talks, that the defacto-complainant with her family members when went to the house of her in-laws for amicable settlement, they bluntly refused their proposals and developed altercation with them demanding additional dowry and presented the report for necessary action against the accused.

3) Impugning the charge sheet and cognizance taken for the above said offences by the learned Magistrate, the petitioners filed the present application contending that soon after the marriage the couple had been Tirupathi, then Delhi and thereafter they left to U.S.A where both are working on 25.11.2012 itself, that during this 25 days, the couple have never stayed with the accused house at Khammam, but they were moving from place to place, however, even after landing in U.S.A both have separated to their respective places i.e., the 1st petitioner is at Colorado State and the defacto-

complainant at San Francisco, CA, USA which is having the air distance of about 1600 KMs and they hardly used to meet since the travel between the two places there are living is quite long, for this purpose the 1st petitioner requested the defacto-complainant to join him so that they can enjoy the marital life and can proceed in the matrimonial home, though the petitioners tried to mediate with the parents of the defacto-complainant, they all did not evince any interest in the issue. It is further contention that the 1st petitioner having fed up and having lost all the hopes has decided to seek divorce since the respondent-wife is not showing any interest in the matrimonial home, nor her parents are interfering for any good, then only the 1st petitioner got issued notice on 07.04.2014 through his counsel that after receipt of the notice, the 2nd respondent hatched a plan to harass the petitioners and to extract money from them filed the present case with all false and baseless allegations. The further contention that there is no cause of action arose at the place within the limits of Women Police Station, Khammam and that there are no ingredients attract Section 498-A I.P.C nor Sections 3 and 4 of the Dowry Prohibition Act and hence the prosecution of the case against the petitioners is only an abuse of process of law and grave injustice would be caused if the petitioners are subjected to trial for the present false case and prayed to quash the entire proceedings of the above calendar case.

4) A perusal of the very report clearly speaks that the marriage performed at Khammam on 01.11.2015, if at all any part of cause of action therefrom, the entire incident took place including the demands for additional dowry or ill-treatment, if any, only at other places viz., Tirupathi or U.S.A even as per the report, which clearly discloses that they landed in U.S.A on 25.11.2012 i.e., both

couple lived in India for a period of hardly three weeks and during these three weeks both couple had been traveled various places in India and lived there for some time.

5) It is the crime registered by Women Police Station of Khammam for the offences supra and investigated and filed the final report that was taken cognizance by the learned Magistrate for the offences supra against the accused, now seeking to quash the same on the grounds that there is no any cause of action or jurisdiction for the police of Women Police Station, Khammam to receive the report and register the crime and to investigate and file final report or for the learned Magistrate of Khammam to take cognizance for no part of cause of action taken place within the jurisdiction of the learned Magistrate, Khammam and thereby the proceedings are liable to be quashed.

6) The police final report that was taken cognizance by the learned Magistrate, shows there are as many as 6 witnesses out of which L.W-1 is the defacto-complainant, L.Ws 2 and 3 are parents of L.W-1 and L.W-4 is grand father of L.W-1 and L.Ws 5 and 6 are investigating officers. Therefrom, coming to the statements of the witnesses concerned, all L.Ws 1 to 4 reiterated what is stated in the report which clearly discloses that the 1st petitioner/A-1 abused her in Tirupathi and Delhi and petitioner Nos.2 and 3 demanded additional dowry at U.S.A when they went to U.S.A. They further stated that in the month of April, 2014 the 1st petitioner issued a legal notice. From all their statements, there is nothing to show even any little part of cause of action taken place within the jurisdiction of learned Magistrate at Khammam or Women Police Station, Khammam or even to believe anything taken place at Tirupathi or Delhi as the case is mainly for cruelty and demands for

additional dowry everything taken place at various places in India and L.Ws 2 and 3, parents of L.W-1 came with same version of L.W-1. L.W-4 also stated of what L.W-1 introduced in her statement but for that, from their statements also everything taken place in Tirupathi, Delhi and U.S.A of any demands for dowry and harassment for meeting of the same or any dispute in relation thereto and nothing taken place in Khammam, within the jurisdiction of S.H.O, Women Police Station or the learned Magistrate for the learned Magistrate to take cognizance despite the bar under Chapter XIII Cr.P.C covered by Sections 177 to 189 Cr.P.C. In fact, the Apex Court in ***Y.Abraham V. Inspector of Police***^[1] in similar facts held in quashing of the proceedings for want of jurisdiction.

7) It is further averred by L.Ws 1 to 3 that in the month of September, 2013 petitioners 2 and 3 went to U.S.A and harassed her and the petitioner issued a legal notice in the month of April, 2014, the defacto-complainant presented the report to the Women Police, Khammam on 02.05.2014. If any cruelty or harassment meted out by the 2nd respondent, what prevented her to made a report after September, 2013 and what made her to complain after issuing a legal notice by the 1st petitioner seeking divorce.

8) In fact, the learned Magistrate should not have taken cognizance and the taking of cognizance is by non-application of judicial mind without even jurisdiction for no part of cause of action taken place under Chapter XIII Cr.P.C for taking cognizance under Section 190(i)(b) Cr.P.C. and had the learned Magistrate gone through the facts, he could not have chosen to take cognizance of the offence. Thereby the cognizance taken by the learned Magistrate is liable to be set aside.

9) Accordingly, the criminal petition is allowed and the proceedings in C.C. No.507 of 2014 on the file of I Additional Judicial Magistrate of the First Class, Khammam is quashed. The bail bonds of the accused, if any, shall stand cancelled. As a sequel, miscellaneous petitions pending, if any, in the above criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20.11.2015
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[\[1\]](#) (2004)8 SCC 100