

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

CRIMINAL PETITION No.6301 of 2011

ORDER:

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This criminal petition is filed seeking to quash the proceedings in C.C.No.170 of 2011 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam.

2. The allegations, in brief, are that the 1st respondent/*de facto* complainant and non-petitioner/A1 having eloped, got married on 30-05-2009 in Pushkarini Kalyanamandapam at Simhachalam, and thereafter, at the instance of the elders, their marriage was again performed on 06-06-2009 at Skandagiri Temple, Secunderabad. The allegation is that immediately after the marriage, the 1st respondent/*de facto* complainant was subjected to harassment by A-1 to A-4. In the charge-sheet, the allegation is that after the marriage, even though A-1 and 1st respondent/*de facto* complainant are living separately at New Vasavi Nagar, Secunderabad and, the petitioners, being parents, and sister of A-1 used to visit their house now and then, and whenever they visit, they were subjecting the 1st respondent/*de facto* complainant to harassment and threatened to perform the marriage of A-1 with another lady.

3. Learned counsel for the petitioners/accused submits that on the face of it, the contents in the charge-sheet do not constitute the offence punishable under Section 498-A I.P.C. In support of his case, he relied upon the judgment of the Supreme Court in **Ramesh and others v. State of Tamil Nadu**. The operative portion of the judgment reads as under:

"Para-6: Before we proceed to deal with the two contentions relating to limitation and territorial jurisdiction, we would like to consider first the

contention advanced on behalf of the appellant Gowri Ramaswamy. Looking at the allegations in the FIR and the contents of charge-sheet, we hold that none of the alleged offences viz. Sections 498-A, 406 IPC and Section 4 of the Dowry Prohibition Act are made out against her. She is the married sister of the informant's husband who is undisputedly living in Delhi with her family. Assuming that during the relevant time i.e. between March and October 1997, when the 6th respondent (informant) lived in Mumbai in her marital home, the said lady stayed with them for some days, there is nothing in the complaint which connects her with an offence under Section 498-A or any other offence of which cognizance was taken. Certain acts of taunting and ill-treatment of the informant by her sister-in-law (the appellant) were alleged but they do not pertain to dowry demand or entrustment and misappropriation of property belonging to the informant. What was said against her in the FIR is that on some occasions, she directed the complainant to wash WC and she used to abuse her and used to pass remarks such as "even if you have got much jewellery, you are our slave". It is further stated in the report that Gowri would make wrong imputations to provoke her husband and would warn her that nobody could do anything to her family. These allegations, even if true, do not amount to harassment with a view to coercing the informant or her relation to meet an unlawful demand for any property or valuable security. At the most, the allegations reveal that her sister-in-law Gowri was insulting and making derogatory remarks against her and behaving rudely against her. Even acts of abetment in connection with unlawful demand for property/dowry are not alleged against her. The bald allegations made against her sister-in-law seem to suggest the anxiety of the informant to rope in as many of the husband's relations as possible. Neither the FIR nor the charge-sheet furnished the legal basis to the Magistrate to take cognizance of the offences alleged against the appellant Gowri Ramaswamy. The High Court ought not to have relegated her to the ordeal of trial. Accordingly, the proceedings against the appellant Gowri Ramaswamy are hereby quashed and her appeal stands allowed".

4. Upon perusal of the contents of the charge-sheet, it is clear that there is specific allegation against A-1 to A-4 that they are not only subjecting the 1st respondent/*de facto* complainant to harassment, but also threatened to perform the second marriage of A-1. Therefore, at this stage, it cannot be said that there is no material to connect the accused for the offences as alleged. However, considering the facts and circumstances of the case, since A-2 to A-4, being the parents and sister of A-1, who are elderly persons, their presence need not be insisted

on each and every date of hearing.

5. Hence, the criminal petition is dismissed. However, the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to dispose of C.C.170 of 2011 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. However, he shall not insist the presence of the petitioners-accused 2 to 4, unless their presence is required for any specific purpose.

6. The miscellaneous petitions pending, if any, shall also stand closed.

M.S.K. JAISWAL, J.

Dt.01-10-2015.

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