

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1462 of 2014

ORDER:

In this petition filed under Section 482 Cr.P.C., petitioner/A4 to A7 seek to quash the proceedings in S.C.No.337 of 2013 on the file of II Additional Metropolitan Sessions Judge, Hyderabad.

2) The police of Falaknuma PS registered FIR No.203 of 2011 and after investigation laid charge sheet for the offences under Sections 302 and 201 IPC against A1 to A3 and for the offences under Sections 498A IPC and Sections 3 and 4 of Dowry Prohibition Act against A4 to A7 and the matter was taken cognizance and now S.C.No.337 of 2013 is pending before the learned II Additional Metropolitan Sessions Judge, Hyderabad.

3) A1 is the husband, A2 and A3 are parents-in-law, A4 is the sister-in-law and A5 to A7 are brothers-in-law of deceased—Bushra Batool. The prosecution case is that her marriage with A1 took place in the year 2006 and the couple begot three children—one son and two daughters. At the time of marriage the accused demanded Rs.3 lakhs dowry which the father of deceased promised to pay in due course but did not pay. Thereafter the deceased was subjected to both physical and mental cruelty by the accused. In this regard, on 03.07.2011 the accused summoned the father of the deceased and demanded dowry amount and he pleaded his inability and requested them

to treat his daughter well, but the accused did not heed. While so, on 24.09.2011 the deceased found the photograph of a lady in the shirt pock of her husband and when she enquired about the same, A1 warned her not to interfere with his personal matters and threatened her. Thereafter, on 25.09.2011 the deceased was caught fire in her matrimonial home and according to the prosecution, A1 to A3 poured kerosene on her and set her ablaze. She was admitted in Yashoda Hospital, Malakpet. Initially her statement was recorded by Sub-Inspector Police, Falaknuma PS and later her dying declaration was recorded by I Metropolitan Magistrate, Hyderabad on 29.09.2011. While undergoing treatment she was expired on 30.09.2011 at 21 hours at Yashoda Hospital. Hence the charge sheet.

4) Now, the submission on behalf of petitioners/A4 to A7 is that A4 is the married sister and A5 to A7 are married brothers of A1 and they are living separately and they have nothing to do with the matrimonial affairs of A1 and deceased and they were unnecessarily implicated in the case. It is further argued that in the successive dying declarations of the deceased she did not make even a whisper about the alleged harassment of A4 to A7. Except the omnibus allegations made by LWs.1 and 2, the parents of deceased in their statements, there is no material to connect the petitioners to the crime and therefore, continuation of the proceedings against them will amount to abuse of process of law. Learned counsel relied upon the following decisions to buttress his arguments.

1. ***Preeti Gupta v. State of Jharkhand***^[1]
2. ***Kans Raj v. State of Punjab***^[2]
3. ***Geeta Mehrotra v. State of UP***^[3]
4. ***Neelu Chopra v. Bharti***^[4]

5) In opposition, learned Public Prosecutor and learned counsel for defacto complainant argued that a woman who suffered more than 75% of burns cannot be expected to give minute details of the crime against all the accused and therefore, merely because successive statements of the deceased did not contain incriminating material against the petitioners/A4 to A7, that is not the end of the matter and on other hand, L.Ws.1 and 2 who are the parents of the deceased and who equally suffered along with their daughter, the harassment meted out by all the accused for dowry of Rs.3 lakhs are proper persons who have clearly spoken about the atrocious acts of not only of A1 to A3 but also A4 to A7. So, their statements cannot be brushed aside simply as omnibus allegations. They argued that the truth or falsity of their version can be determined only after full fledged trial and hence having regard to the gravity of the offence, petition may be dismissed.

6) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

7 a) **POINT**: Admittedly, the deceased was caught in fire in her matrimonial home and subsequently died in the hospital. The

allegation is that the accused have harassed her for dowry amount of Rs.3 lakhs which was remained unpaid since the marriage of the deceased due to financial inability of her father. It is the case of prosecution that all the accused including the petitioners/A4 to A7 harassed the deceased for dowry amount. So far as charge against A4 to A7 is concerned, under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act. It is true that in the successive statements of the deceased, she did not tell anything about the harassment said to be meted out by petitioners/A4 to A7 for the dowry amount. However, the argument of learned Public Prosecutor is worth mentioning. He contended that in view of extensive burns the deceased might have confined her statement regarding burning incident rather than making vivid description of dowry harassment and so, the allegations against petitioners/A4 to A7 cannot be prejudged basing on the statement of the victim alone. As rightly argued by the learned counsel for complainant and the learned Public Prosecutor, the version of the parents of the deceased is also equally important because they are the first and best persons to know about the harassment suffered by their daughter in the hands of accused.

b) In his statement, L.W.1 deposed that due to heavy marriage expenses he could not fulfil the dowry demand of Rs.3 lakhs and still it was pending and on the date of marriage itself the accused expressed dissatisfaction over quality of dowry articles and they did not allow her daughter to talk with her parents and visit them since after marriage. Most importantly, he

revealed all the in-laws such as husband—Afzal, father-in-law—Khasim, mother-in-law—Hameeda Bee; brothers—Mohd. Quadir Qureshi, Isaq Quresh and Nadeem Quresh and sister—Salma were responsible for her plight in the in-laws' place and they have subjected her to dowry cruelty and they were all demanding the fulfillment of pending 3 lakh dowry. He further narrated, on 03.07.2011 they all sat in the matrimonial house of the deceased and conferred with Mohd. Afzal. His parents and Salma were also available and all of them demanded Rs.3 lakhs pending since marriage but he expressed his inability to pay that amount and told them to look after his daughter well who is the mother of three children. L.W.2 also deposed in similar lines.

c) Thus, these two witnesses were emphatic about the harassment meted out by all the accused including the petitioners/A4 to A7. Therefore, it cannot be said that there is no iota of material to connect the petitioners/A4 to A7 to the case. It is the contention of petitioners that they are all married and living separately and they have nothing to do with the marital affairs of deceased and A1. This argument does not have much conviction because in the charge sheet the addresses of petitioners/A4 to A7 are mentioned similar to that of A1 to A3. This fact was confirmed by Investing Officer in his remand case diary report dated 01.10.2011. He mentioned thus:

“The detailed statements of L.W.1 and her parents were recorded at Yashoda Hospital, Malakpet. L.W.1 corroborated the FIR contents whereas her parents stated that there is a pending dowry demand of Rs.3 lakhs

prevailing which was unpaid during the marriage and burnt woman was subjected to cruelty by the husband, his parents, sister-in-law and three brothers of the husband all living in the same house.”

So, the facts and statements of L.Ws.1 and 2 provide a *prima facie* accusation against the petitioners/A4 to A7.

8) In the cited decisions Honourable Apex Court deprecated the practice of roping in as many as relations of husband in dowry harassment and dowry death cases depending on the facts involved in those cases. That is one angle of the dowry harassment and dowry death cases. However, material available in the instant case shed a *prima facie* case against the petitioners. Therefore, it is not apposite to quash the proceedings sofaras petitioners are concerned.

9) In the result, this Criminal Petition is dismissed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 09-03-2015

Murthy

[\[1\]](#) (2010) 3 SCC (Cri) 473 = (2010) 7 SCC 667

[\[2\]](#) 2000 Cr.L.J. 2993

[\[3\]](#) (2013) 1 SCC (Cri) 120 = (2012) 10 SCC 741

[\[4\]](#) (2009) 10 SCC 184