

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL PETITION No.5776 of 2012

ORDER:

This Criminal Petition under Section 482 of the Code of the Code of Criminal Procedure, 1973 (for short, 'the CrPC') is filed by the petitioners/A4 to A6 requesting to quash the proceedings against them in C.C.No.48/2012 on the file of the Court of the learned IV Additional First Class Magistrate, Warangal taken on file for the offences punishable under Section 498-A of the Indian Penal Code ('the IPC' for brevity) and under Sections 3 and 4 of the Dowry Prohibition Act ('the DP Act' for brevity).

2. I have heard the submissions of the learned counsel for the petitioners/A4 to A6 and of the learned Public Prosecutor and also of the learned counsel for the complainant/second respondent. I have carefully perused the material record.

3. **POINTS:**

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- (i) Whether the petitioners/A4 to A6 have made out valid and sufficient grounds for quashing the proceedings against them in C.C. No.48/2012 on the file of the Court of the learned IV Additional Judicial Magistrate of First Class, Warangal?
- (ii) Whether the un-controverted allegations made in the complaint do not disclose *prima-facie* the commission of any offence, much less the alleged offences, and make out the case against the A4 to A6/petitioners?

4. **POINTS:**

4. (a) The second respondent/complainant filed a private complaint under Section 200 of the CrPC before the learned IV Additional Judicial Magistrate of First Class, Warangal against A1 to A6, including the petitioners herein, alleging *iner alia* as under: “A1 is her husband. A2 and A3 are her parents-in-law. A4 is the brother of A1. A5 and A6 are the sisters of A1. The complainant is a graduate in medicine. She went to USA on student VISA to pursue her master’s degree. Her marriage with A1 was performed on 18.05.2006 at Warangal. A1 had also completed his graduation in medicine and was working as a Doctor in UK. At the time of marriage, demands for dowry in cash and gold were made and the same were given. After the marriage, the marriage was consummated. Both the spouses lived at Hyderabad for three days; and, later they had lived at UK for four years. Thereafter, the complainant and A1 used to meet at UK/USA and they used to be in regular touch on cell phones and through email chatting. The complainant had visited UK during the periods from June 2006 to September 2006; November 2006 to December 2006 and March 2007 to May 2007. A1 had also visited USA in the months of September 2006 and January 2007 and had stayed for about one month period with the complainant and had led marital life. The complainant used to spend her maximum time with A1 despite the fact that she was pursuing her studies at USA. A1, not being satisfied with that, used to suspect her during her stay at USA and used to suspect that she is enjoying with third persons, and hence, she is not missing him and that she has no love and affection for him. The complainant used to stay with her brothers. A1 insulted the complainant and assassinated her character and offended her moral values. A1 used to harass the complainant on petty issues and, therefore, she was unable to concentrate on her studies and has decided to go with A1 to UK by breaking her semester,

to satisfy the wish of A1, but, the university authorities did not permit her to do so. On coming to know of the same, A1 immediately had thrown her clothes and other belongings outside her room in USA and shouted at her in front of her friends and roommates and caused severe embarrassment. A1 had forced her to discontinue her studies and stay with him in UK and join as a duty doctor and earn money for his family members. In the month of May 2007, the complainant went to UK and stayed with A1. Due to negligence of A1, the complainant met with an accident and sustained severe burns and took 15 days bed rest. A1 had intentionally caused disruption to her studies. When the complainant was at USA, A1 used to frequently call her and ask her to come over to UK for petty reasons like suffering from cold or fever etcetera. A1 used to suspect her character and abuse her in filthy language and used to brand her as a flirt by saying that she does not have love and affection towards him. A2 to A4 also used to call A1 on phone and encourage him to harass the complainant and demanded for her earnings. A2 to A4 had further demanded that the complainant should not reside at USA as she is not getting any job at USA and forced her to come to UK and search for a job for their needs. The complainant had adjusted with A2 to A5 and had tried to change the attitude of A1, but he did not change. A1 had harassed her physically, mentally and sexually. His parents often used to call the complainant and forced her to do something to earn and satisfy their son. A1 beat the complainant and spat on her face and had seized her passport and VISA and kept them with him; the same were not returned despite several requests and even after begging for pardon by falling at the feet of A1. After falling at his feet, A1 had returned the passport and VISA to her. The complainant went back to USA. She felt depressed; and suffered ill health and mental agony. The complainant told A1 to A5 that as and when she and A1 come to visit India, they would discuss the problems and sort out the same before the family members. A1, without any information to the complainant, had come

down to India and filed a divorce petition in the Court of the Principal Senior Civil Judge at Rangareddy. By then, the complainant had returned to India with an intention to settle the problem and stay happily with her husband. Having come to know about the divorce issue she had visited A2 to A6 and requested them to settle the dispute, but, they did not respond in a cordial way and they had stated that as per their demand and support A1 had filed the divorce petition. They had abused the complainant for not following their suggestion and not joining the job. They had stated that they could have demanded more amounts from her parents because she is a Doctor and would have easily got a lot of amount. They had also stated that they had decided to get rid of the relationship between the complainant and A1 and perform the marriage of A1 with another woman with sufficient dowry. The attempts that were made by the parents of the complainant with the help of caste elders, to convince A2 to A5, were futile. Therefore, the complainant had filed a private complaint; that complaint case was compromised and in view of that compromise, A2 to A5 were deleted from the array of parties. Subsequently A1 and complainant have also compromised the matter before the District Legal Services Authority, Warangal and thereafter A1 took the complainant to USA where A1 was working as a Doctor. After starting marital life they had lived happily. Thereafter, from 01.01.2009 onwards, A1 had again started harassing the complainant physically and mentally. On 01.01.2009, when A1 and the complainant went out for celebration, the complainant's brother called on her phone to greet her. A1 got angry and beat her and left her in the car and went to some place. At that time she was not carrying any purse. She just sat in the car and had waited for A1. He had returned after half an hour and did not talk to her. After returning home he had abused her by saying that she was sitting idle and enjoying the life at his expense. A1 used to quarrel with the complainant on petty issues that she was talking with his brother or parents. The camera of A1 fell off from her hands. Due to harassment

and mental tension, the complainant had suffered miscarriage. On that A1 harassed her by calling her "Godralu". A1 used to compare her life with incidents in TV shows and harass her. In March 2010, the marriage of the sister of A1 had taken place. At that time A1 and complainant came over to India. On that occasion, the complainant wore a new dress and ornaments. A1 abused her by saying that she is the central figure to attract the relatives with her beauty and had further used filthy language. Later both A1 and the complainant went for shopping. There also A1 abused her by calling her "Bazarudana" and left her on the road and had returned to the house. The complainant having waited for some time had returned to the house in an auto. The respondent and his family members harassed the complainant. On return to US, he increased the harassment despite requests by the complainant to behave in a cordial manner. On 03.06.2010, A1 abused the complainant. On information, the neighbours came to the residence and registered a case against the accused and the accused was restrained by an order for three months and had paid fine in the US Court. Thereafter, A1 had not paid the flat rent and stopped living with the complainant. Therefore, she went to her brother's house in USA and stayed there for two months and had returned to India to get rid of their relationship, which was already broken. A2 to A5 had abetted A1 to do criminal activities. A1 to A5 are harassing the complainant. The complainant is preparing for entrance test. But, A1 to A6 are not allowing her to concentrate on her studies."

4. (b) In this criminal petition, the petitioners/A4 to A6, in support of their request for quashing the proceedings against them, urged as follows: 'A4 to A6 are in no way connected with the marital life of A1 and the second respondent. There are no allegations against them to constitute the offence under Section 498-A of the IPC. The earlier criminal case was compromised. Again the second respondent lodged the present complaint on 18.12.2010. There are no specific overt acts

against the petitioners/A4 to A6. The second respondent had filed a divorce case and the same is pending. All the alleged harassment had taken place outside India. The continuation of proceedings against the present accused is an abuse of the process of Court.'

4. (c) The learned counsel for the petitioners/A4 to A6 at the time of hearing had reiterated the contentions urged in the petition. He had mainly contended that the petitioners are unnecessarily roped in to harass them and that the allegations against them in the complaint of the 2nd respondent are omnibus, vague and casual in nature and that no specific overt acts satisfying the ingredients of the penal provisions are there against them and that the uncontroverted allegations made in the complaint do not disclose even a *prima facie* against the petitioners and that no case is made out against them for the offences alleged.

4. (d) The learned counsel for the second respondent had submitted that the averments in the complaint show sufficiently the complicity of A4 to A6 and that the uncontroverted allegations make out a *prima facie* case against the A4 to A6 for the alleged offences and that no grounds are made out by them for quashing the proceedings against them.

4. (e) I have bestowed my attention to the facts and the submissions. I have gone through the complaint in its entirety. The important averments in the complaint are extracted supra while narrating the factual background of the case. All the allegations in the complaint in entirety would show that the spouses lived either in USA or UK while the present petitioners/A4 to A6 are residents of Bangalore. The omnibus allegations against the said accused are that they abetted A1 on phone and encouraged him to harass the complainant and demanded for her earnings and that A4 and A5 abetted A1 to do criminal activities against the complainant and that the A4 to A6 did not allow the complainant to

concentrate her on studies. Except the omnibus and vague allegation made without details, there are no other allegations to show the complicity of the accused for the alleged offences. This Court had carefully examined the averments in the complaint in entirety to find out whether the averments make out a *prima facie* case against the petitioners/A4 to A6 for the alleged offences. On such examination, this Court finds that absolutely no case much less a *prima facie* case is made out against the petitioners/A4 to A6 for the offences punishable under Section 498-A of IPC and under Sections 3 and 4 of the DP Act. The learned counsel for the petitioners having filed certain material papers had submitted that between the spouses a proceeding for Divorce was initiated in the Common Wealth of Massachusetts Trial Court and that on appearance of the complainant the complainant and her husband had signed a mutual divorce settlement agreement on 16.08.2013 and the same was submitted to the Court and that the same was made absolute on 03.03.2014 and that the husband had paid to the complainant \$5000 each by way of four cheques and the same were encashed and that proof in that regard is also submitted with material papers. Be that as it may. This Court, in the facts and circumstances of this case, is of the considered view that the matter would not justify taking cognizance against the petitioners herein. This is evidently a fit case where the fact borne out by experience that there is a tendency to involve the entire family of the husband in the domestic quarrel gets attracted. The law is well settled that in a matrimonial case like the present one, when only a casual reference is made to the relatives of the husband and there is absence of specific allegations of active involvement in the matter and when the allegations made are omnibus and vague in nature and when the un-controverted allegations made in the complaint/case do not disclose even a *prima facie* case, the continuation of the proceedings against such relatives of the husband would be an abuse of judicial process. The above view of this Court

finds support from the ratio in the decision in **Geeta Mehrotra v. State of U.P.**^[1]. Therefore, this court considers that continuation of proceedings against the petitioners is an abuse of judicial process and hence, the petitioners are justified in seeking the reliefs. Viewed thus, this Court finds that the petitioners have made out valid and sufficient grounds to quash the proceedings against them.

5. In the result, the Criminal Petition is allowed and the proceedings against the petitioners/A4 to A6 in C.C.No.48 of 2012 on the file of the Court of the learned IV Additional First Class Magistrate, Warangal are quashed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M.SEETHARAMA MURTI, J

19th January 2015
MVA

^[1] (2012) 10 Supreme Court Cases 741