

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

+CRIMINAL PETITION No.4927 OF 2014

-

% Dated 28.07.2015

Between:

Valupali Praveen Kumar and others ...Petitioners

and

\$ V.Sharon Christopher and another
Respondents

! Counsel for the petitioners : T.Pradyumna Kumar Reddy,

^ Counsel for 2nd respondent : Public Prosecutor

Counsel for 1st respondent : M/s. Srikanth Reddy Ambati

< GIST : ---

>HEAD NOTE : ---

? Cases referred: :

[1] . 2013(9) SCC 293

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4927 of 2014

ORDER :

The Criminal Petition is filed by the petitioners/A.1 to A.3 under Section 482 Cr.P.C to quash the proceedings of Cr.No.79 of 2014 of W.P.S. CCS, Hyderabad (Amended from Police final report already filed) taken cognizance by the XIII Additional Chief Metropolitan Magistrate, Hyderabad for the offence under Section 498-A of I.P.C.in C.C.No.303 of 2014, which is outcome of above referred crime registered on the report dated 27.02.2014 of the 1st respondent-defacto-complainant claiming A.1 as her husband and A.2 and A.3 are

parents of A.1, that A.1 V.Praveen(kumar) did engagement and soon he is getting married and with source of her through wellwishers she came to know that there is a petition pending in CCS under Section 498-A IPC for third counseling fixed on 06.03.2014, hence to take necessary action against her husband and her parents-in-law supra and also mentioned that she is already legally wedded wife of V.Praveen Kumar(A.1) whom she married on 06.03.2013 under Hindu tradition.

2. The case of the quash petitioners-accused persons supra in nutshell is that 1st respondent married another person and blessed with a girl then aged about 13 years and subsequently she married again one Ambi Sai Baba and was blessed with a son aged about 8 years, that the marriage between the 1st respondent and alleged Ambi Sai Baba who is residing in U.S.A. is still subsisting who came to India in the month of December, 2013 and has gone back in the month of January, 2014 and therefrom the 1st respondent cannot termed as wife of 1st petitioner and Section 498-A has no application, that the A.1 was arrested and produced before the learned Magistrate on 01.03.2014, who refused to accept the remand of the A.1 for failure of police to follow the guidelines, that A.1 was again produced before the XIII Additional Chief Metropolitan Magistrate, Hyderabad who remanded him to judicial custody on 06.03.2014 and later he was released on bail, that the process of arrest and remand of A.1 is illegal, that the police ignoring the factum of earlier marriage of 1st respondent with Ambi Sai Baba, filed final report for the offence under Section 498-A of I.P.C., even not attracted for no marriage and no such a conduct on the part of the husband or relatives of the husband of a woman to drive the woman to commit suicide or cause grave injury or danger to life limb or health whether mentally or physical, that the continuation of the proceedings is nothing but abuse

of process of law and liable to be quashed. In the course of hearing from the additional material filed by the petitioners, it discloses that the self-same 1st respondent herein filed a private complaint before the learned XIV Metropolitan Magistrate, Rangareddy District at L.B.Nagar, under Section 200 Cr.P.C. against one Saibaba Ambi and 5 others for the offences under Sections 498-A, 420, 494 and 506 read with 34 of I.P.C. on 23.02.2015 and the learned Magistrate when referred the same under Section 156(3) Cr.P.C.to the W.P.S. Saroornagar for investigation at request of said defacto-complainant on 24.02.2015 and the police therefrom registered Cr.No.41of 2005 on 04.03.2015 for the offences supra. In the Cr.No.41of 2005, she alleges that Saibaba Ambi is her husband and her marriage with him was solemnized on 17.06.2004 at Centenary Methodist Church, Narsingi, which is outcome of love affair between them being inter-related since 2002 with live in relationship and she conceived out of that live in relationship and the other accused supra persuaded to undergo abortion with a threat and believing them she underwent abortion in 2003 at her 8th month pregnancy and the marriage was performed on 17.06.2004 and within no time after marriage the accused persons conspired together and were harassed her physically and mentally. It is also averred that in the wedlock with A.1 Saibaba Ambi she was blessed with a male child Manish now aged 7 years and in the year 2007 she was taken to her parents' house for delivery and at that time Saibaba left to USA on job visa by forcing the complainant to cause pledging her jewellery for his resources to go abroad and even after delivery of male child the accused forced her to stay at her mother's home and she was constrained to stay lonely with the child at Gunfoundry and even after Saibaba came to India in the year 2009 he did not bother to take her or to provide anything for their survival and added to that he undergone second marriage with A.6 and she made efforts and joined back Saibaba on

visiting visa at United States on 14.04.2011 and after couple of months returned back to India with him and in 2012 he left her in India to United States and started false propaganda and by sending vulgar messages and photos through social media at the instance of other accused and in 2014 ultimately she was driven out with the son and thereby the accused are liable.

3. Heard the learned counsel for the petitioners/A.1 to A.3 so also the learned Public Prosecutor for the 2nd respondent-State and the 1st respondent-defacto-complainant and perused the material on record.

4. The above factual matrix from both the complaints of the 1st respondent clearly shows that her marriage with Praveen Kumar-A.1 in Cr.No.79 of 2014 was allegedly performed under Hindu law on 06.03.2013 whereas with Saibaba Ambi A.1 in Cr.No.41 of 2015 was performed on 17.06.2004 outcome of live in relationship and love affair from 2002 and cause aborted before marriage and after marriage blessed with a male child now aged about 7 years and says lived with said Saibaba including during 2011 and 2012 and stayed till November,2014 at the marital home and was necked out. That F.I.R. is not even chosen to dispute by counsel for the 1st respondent. A perusal of the undisputed contents of the F.I.R. in Cr.No.41 of 2015 supra itself falsifies the present crime No.79 of 2014 averments and thereby it is a fit case for quashing as laid down by the Apex Court in **Prashanti Bharathi Vs.State** of Nct of Delhi^[1] at paras 30(1 to 5) guidelines, particularly guideline No.30.3 of where the material relied on by the accused has not been refuted by the prosecution or complainant is such that it cannot justifiably refuted and continuation therefrom as per 30.4 is abuse of process and thereby fit case to quash.

5. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.303 of 2014 on the file of the XIII Additional Chief Metropolitan Magistrate, Hyderabad for the offence under Section 498-A of I.P.C. are quashed. Bail bonds of the petitioners, if any, shall stand cancelled.

6. Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt. 28.07.2015
L.R.Copy to be marked.
B/o. Vvr.

[\[1\]](#) 2013 (9) SCC 293