

HON'BLE SMT. JUSTICE ANIS

CRIMINAL PETITION No. 2693 OF 2015

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ORDER:

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This is a Criminal Petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') by the petitioner/accused requesting to quash the proceedings in C.C.No.119 of 2010 on the file of the X Metropolitan Magistrate, Cyberabad at Malkajgiri.

2. The 2nd respondent/*de facto* complainant lodged a complaint before the Station House Officer, Malkajgiri against the petitioner/accused alleging that her marriage with the petitioner was solemnized on 10.02.2008 at Anandbagh, Malkajgiri. At the time of marriage, her parents gave cash of Rs.2.5 lakhs, 10 tolas of gold and other kitchen items towards dowry. After marriage, she went to Chennai along with the petitioner. From day one onwards, the petitioner used to abuse her for no reason and thrashed her. As such, the *de facto* complainant lodged a complaint with the police on 29.12.2008. The police compromised the matter after taking undertaking from the petitioner. Then, the petitioner and the *de facto* complainant used to live at Chennai. Thereafter, the behaviour of the petitioner became worsen and he started abusing the *de facto* complainant in front of others and also used to behave in nasty manner. Further, while going outside, the petitioner used to keep the *de facto* complainant under lock in a room until he comes, as such she cannot come out of the room. It is also alleged that the petitioner harassed the *de facto* complainant after he spoke to his brother, father and aunt. Due to the said harassment, the *de facto* complainant called her parents to Chennai, came back to Hyderabad and staying with her parents. It is also alleged that even after returning to Hyderabad, the petitioner used to abuse her by making phone calls from unknown numbers. Further, the petitioner came to Hyderabad and shouted on the *de facto* complainant as well her parents and used filthy language, and as such, she lodged a complaint with the police.

3. Basing on the complaint filed by the *de facto* complainant, the police

registered a case in Crime No.31 of 2010 for the offence punishable under Section 498-A IPC. After completion of investigation, the Investigating Officer filed the Charge sheet into the Court, which is numbered as C.C.No.119 of 2010.

4. During pendency of C.C.No.119 of 2010, the petitioner/accused filed Crl.M.P.No.182 of 2014 before the trial Court under Section 177 Cr.P.C. to discharge him and the same was dismissed by the order, dated 07.11.2014.

5. Aggrieved by the order, dated 07.11.2014, passed in Crl.M.P.No.182 of 2014 in C.C.No.119 of 2010, the present Criminal Petition is filed to quash the proceedings in C.C.No.119 of 2010.

6. The learned counsel for the petitioner/accused argued that there is no *prima facie* case against the petitioner; that there are no allegations whatsoever mentioned in the complaint; that the trial Court has not considered the judgment reported in *Tammineedi Bhaskara Rao and two others Vs. State of A.P. represented by Public Prosecutor and another* while deciding the Crl.M.P.No.182 of 2014 and also not considered the case-law reported in *Y.Abraham Ajith and others Vs. Inspector of Police, Chennai and another*, but simply passed the order arbitrarily; that the trial Court i.e.

X Metropolitan Magistrate, Cyberabad at Malkajgiri has no jurisdiction to deal with the matter, and finally, prayed the Court to quash the proceedings in C.C.No.119 of 2010 on the file of the X Metropolitan Magistrate, Cyberabad at Malkajgiri.

7. On the other hand, the learned Public Prosecutor appearing for the 1st respondent/State argued that the *de facto* complainant gave a complaint to the Malkajgiri police in which it was alleged about the harassment made by the petitioner and the same was numbered as Crime No.31 of 2010; that the Investigating Officer, after completion of the investigation, filed the Charge sheet against the petitioner for the offence punishable under Section 498-A IPC; that the trial Court, after considering the decisions relied on by the petitioner, dismissed Crl.M.P.No.182 of 2014; that the trial Court while dismissing Crl.M.P.No.182 of 2014 held that there is a *prima facie* case against the petitioner and dismissed the petition filed by the petitioner under Section 177 Cr.P.C.; that the petitioner is not

entitled for any relief in the present Criminal Petition as the trial Court has already taken cognizance of the matter as C.C.No.119 of 2010, and finally, prayed the Court to dismiss the petition.

8. No notice was issued to the 2nd respondent/*de facto* complainant as not necessary.

9. Now, the point for determination is –

Whether the petitioner/accused is entitled to quash the proceedings in C.C.No.119 of 2010 on the file of the
X Metropolitan Magistrate, Cyberabad at Malkajgiri?

10. **Point:**

A perusal of the record shows that the

2nd respondent/*de facto* complainant filed a complaint against the petitioner before Malkajgiri Police Station and the same was numbered as Crime No.31 of 2010. After recording the statements of the *de facto* complainant and other witnesses, the Investigating Officer filed the Charge sheet into the Court and the same was taken on file by the learned Magistrate as C.C.No.119 of 2010. It is also an admitted fact that the petitioner filed CrI.M.P.No.182 of 2014 under Section

177 Cr.P.C. stating that the X Metropolitan Magistrate, Cyberabad at Malkajgiri has no territorial jurisdiction to enquire into the alleged offence. After due enquiry, the learned Magistrate dismissed CrI.M.P.No.182 of 2014 by observing that there is a *prima facie* case against the petitioner. While dismissing the petition, the learned Magistrate considered the judgment relied on by the petitioner in *Tammineedi Bhaskara Rao and two others Vs. State of A.P.* (1 supra), wherein this Court held at Para 8 as follows:

“It is not every harassment or every type of cruelty that would attract Section 498A I.P.C. The complainant must allege that the harassment in question was with the intention to force her to commit suicide or to fulfill illegal demands of dowry. It is only when the harassment is shown to have been caused for the purpose of coercing a woman to meet such demands does it amount to cruelty which is made punishable under Section 498A I.P.C. Cruelty postulates such harassment as to cause a reasonable apprehension in the mind of the wife that her living with her husband would be harmful and injurious to her life. Cruelty under Section 498A I.P.C must be of such a nature as to coerce the wife to meet the illegal demands or to commit suicide. While there are specific allegations

against the 1st accused that he had occasioned mental cruelty on the complainant which was likely to drive her mad or to commit suicide, the allegations, in so far as accused 2 and 3 are concerned, are that they had supported the 1st accused and had abetted him in the acts of cruelty towards the complainant. Since the allegations against the 1st accused attract the ingredients of Section 498A I.P.C. and as accused 2 and 3 (Petitioners 1 and 2 herein) are alleged to have abetted the 1st accused in his acts of cruelty towards the complainant, it cannot be said that there are no allegations against petitioners 1 and 2, (Accused 2 and 3), attracting the ingredients of Section 498A I.P.C. While it is true that there are no specific acts of cruelty attributed to petitioners 1 and 2 herein, it must not be lost sight of that this Court, in proceedings under Section 482 Cr.P.C, would not sieve the complaint to minutely examine each and every sentence to verify as to whether each and every part of the ingredients of the offence, which the accused are alleged to have committed, has been made out, more so, when investigation into the complaint has not been completed and no charge sheet has, as yet, been filed.”

The learned Magistrate also considered the judgment relied on by the petitioner in *Y.Abraham Ajith and others Vs. Inspector of Police, Chennai and another* (2 supra), wherein the Hon'ble Supreme Court held as follows:

“A similar plea relating to continuance of the offence was examined by this Court in Sujata Mukherjee (Smt.) v. Prashant Kumar Mukherjee : 1997CriLJ2985. There the allegations related to commission of alleged offences punishable under Section 498A, 506 and 323 IPC. On the factual background, it was noted that though the dowry demands were made earlier the husband of the complainant went to the place where complainant was residing and had assaulted her. This Court held in that factual background that Clause (c) of Section 178 was attracted. But in the present case the factual position is different and the complainant herself left the house of the husband on 15.4.1997 on account of alleged dowry demands by the husband and his relations. There is thereafter not even a whisper of allegations about any demand of dowry or commission of any act constituting an offence much less at Chennai. That being so, the logic of Section 178(c) of the Code relating to continuance of the offences cannot be applied.”

The Hon'ble Supreme Court also held thus:

“When the aforesaid legal principles are applied, to the factual scenario disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, the concerned magistrate had no jurisdiction to deal with the matter. The proceedings are quashed. The complaint be returned to respondent No. 2 who, if she so chooses, may file the same in the appropriate Court to be dealt with in accordance with law. The appeal is accordingly allowed.”

11. Now, the present petition is filed by the petitioner/ accused to quash the

proceedings in C.C.No.119 of 2010 as the petitioner aggrieved by the orders passed in CrI.M.P.No. 182 of 2014. A perusal of the record shows that the Investigating Officer, after completing the investigation, filed the Charge sheet contending that the petitioner is liable for punishment under Section 498-A IPC.

12. Admittedly, the matter is coming up for framing of charges/trial before the trial Court. Instead of challenging the order passed in CrI.M.P.No. 182 of 2014, the petitioner filed the present petition to quash the proceedings in C.C.No.119 of 2010 by taking the grounds of CrI.M.P.No.182 of 2014. In the complaint, the *de facto* complainant categorically mentioned about the alleged harassment meted out by her in the hands of the petitioner. Further, when the Investigating Officer clearly stated about the *prima facie* case against the petitioner and the same was supported by the findings of the trial Court along with material on record, the petitioner is not entitled for the relief of quashing the proceedings in C.C.No.119 of 2010. Further, the pending proceedings are not an abuse of process of law and the petitioner has not made out any case to quash the proceedings in C.C.No.119 of 2010.

13. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

ANIS, J

Date: 07.04.2015

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