

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.7440 of 2014

ORDER:

The petitioners/Accused Nos.2 to 5 in this petition which is filed under Section 482 Cr.P.C seeking quashment of the proceedings in Crime No.113 of 2014 of Women P.S Begumpet.

2 a) A.1 is the husband of complainant. Petitioners/A.2 and A.3 are parents and A.4 and A.5 are sister and brother-in-law of A.1. On the report lodged by the complainant, the police of Women P.S. Begumpet, Secunderabad registered FIR No.113 of 2014 and investigating the matter. The report allegations briefly are that when complainant was studying M.Sc Physics in Central University, Hyderabad during 1999-2001 had friendship with A.1 and on the proposal made by him through their common friend, they got married on 28.08.2004 by which time A.1 was doing Ph.D in U.S.A. The parents of the complainant gave Rs.1,00,000/- cash and Rs.2,00,000/- worth gold and silver items and performed her marriage and after marriage, complainant joined him in College Station, Texas where he was a student in September, 2004 and later they begot a son Sai Sujana in June, 2005. In August, 2005 she joined in Ph.D programme in same university and both of them were getting Assistantship of \$ 1800 p.m.

b) Then it appears her woes started. Her case is that the entire scholarship was kept in their joint account and A.1 never allowed her to have financial freedom and while so in August,

2008 he got job in Milwaukee WI and he forced her to come along with him though she had to take Masters Degree. He used to humiliate and even used to manhandle her and tried to kill her by closing her mouth and nose by force.

c) Then with regard to the petitioners/A.2 and A.3, she alleged that in December, 2008 they went to U.S.A and they too started harassing her stating that if their son married another girl they would have got more dowry and they treated her as a maid servant even did not allow her to play with her child and they also goaded their son to ill-treat her by telling lies against her and all of them colluded together to drive her away from U.S.A to her parental house. In the midst of these travails, she took Masters Degree instead of Ph.D in December, 2011.

d) Whiles, the further case of complainant is that in August, 2012, A.1 visited India for construction of house and at that time all the accused conspired together and they wanted to get rid of her and separate her from her son. After A.1 came back to U.S.A, he forcibly sent away her to India to her parental home as her in-laws did not allow her to stay in their house and she was not allowed to see her son.

3) Heard both sides.

4) Denying the above allegations, learned counsel for petitioners would argue that the marriage between A.1 and complainant was a sort of love marriage wherein the other accused had no interference and the petitioners/ A.2 and A.3 are

humble rural persons and the complainant never lived with them for most of the part of her marital life with A.1 and the question of their harassing or goading their son to ill-treat the complainant, who is a highly educated lady, does not arise and it is only a false allegation to rope them in the case. So far as petitioners/A.4 and A.5 are concerned, he argued that they are the married sister and brother-in-law of A.1 and they absolutely had no role whatsoever in the marital life of A.1 and complainant and it is false to allege that they conspired with other accused to do some harm to her. Learned counsel vehemently argued that the complaint is too vague and there is no description of the nature of the conspiracy allegedly entered into by all the accused. He thus prayed to quash the proceedings against the petitioners, in the light of guidelines given by Hon'ble Apex Court in ***Preeti Gupta and another vs. State of Jharkhand and another***^[1].

a) Apart from above, learned counsel questioned the maintainability of the investigation on the ground that the offences were allegedly committed outside India and the prosecution has not obtained permission from the Central Government in terms of Section 188 Cr.P.C. Thus according to him, at the outset the FIR is not maintainable. In this regard, he relied upon the decision reported in ***Thota Venkateswarlu vs. State of A.P and another***^[2].

5) In oppugnation, learned counsel for respondent/complainant argued that there are specific allegations against petitioners/A.2 to A.5 for their overt-acts and

as the investigation is in initial stage which was stayed at the instance of the petitioners, it cannot be said that there is no *prima facie* case against the petitioners to order quashment. So far as sanction is concerned, learned counsel argued that as per Section 188 Cr.P.C and the decision cited by the petitioners, the question of obtaining sanction will arise only when the concerned Court embarks upon the trial and not at this inceptual stage and hence the argument that FIR is to be quashed on the ground that no sanction was obtained from Central Government is far-fetched.

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

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

7) **POINT:** I have succinctly narrated the complaint allegations. A careful scrutiny of the complaint allegations with reference to petitioners/A.2 and A.3 who are the parents of A.1 are concerned, they reveal the *prima facie* overt-acts. It is the allegation of the complainant that in December, 2008 her parents-in-law visited U.S and at that time they harassed her in many ways and they goaded their son to ill-treat her and A.1 to A.3 tried to drive her away from U.S.A. Ofcourse, these are only allegations and truth or falsity of the same has to be decided during the course of investigation. Be that it may, since there are specific allegations against petitioners/A.2 and A.3, I deem it not fit to quash the proceedings against them. However, unlike to them, petitioners/A.4 and A.5 are concerned, in my considered

view absolutely there is no *prima facie* material to continue the proceedings. The only vague allegation seems to be that in August, 2012 when A.1 visited India at that time himself, his parents and sister and brother-in-law conspired and tried to get rid of the complainant and they tried to separate her son from her. It must be said that what is the basis for her to make this allegation is not known as admittedly at that time the complainant was not in India. Ofcourse she was sent away from USA to India by A.1 but without there being any tangible material, it cannot be presumed that A.2 to A.5 hatched a conspiracy to send her away from USA. Except this one baseless allegation, there are no other allegations so far as petitioners/A.4 and A.5 are concerned. Having regard to this factual scenario and following the ratio laid down in **Preeti Gupta's** case (1 supra), I am of the considered view that the criminal proceedings can be quashed sofaras petitioners/A.4 and A.5 are concerned but the investigation must continue to its logical end as far as other accused are concerned.

8) Then coming to the next argument of the petitioners touching the maintainability of the FIR, I am afraid, the decision in **Thota Venkateswarlu's** case (2 supra) will have no application at this stage. In that case Hon'ble Apex Court was dealing with a question as to whether in respect of a series of offences arising out of the same transaction, some of which were committed within India and some outside India, such offences could be tried together without the previous sanction of Central Government, as envisaged in the proviso to Section 188 Cr.P.C. In respect of the

said question, Apex Court held that sofaras the offences committed in India are concerned, they can be tried by the Courts in India without having to obtain the previous sanction of the Central Government in terms of Section 188 Cr.P.C. Then sofaras the other offences which are committed outside India are concerned, Apex Court further held that in respect of such offences no sanction in terms of Section 188 Cr.P.C is required till commencement of the trial and it is only after the decision to try the offender in India was felt necessary that the previous sanction of the Central Government would be required before the trial Court to commence.

a) Coming to the instant case, as rightly argued by learned counsel for respondent/claimant, the matter is only in the initial stage of investigation and it has not yet been finalized as to which offences are committed by A.1 to A.3 and place of committing of those offences. Therefore, at this stage, the question of obtaining the sanction does not arise and investigation cannot be said to be vitiated for non-securing of sanction.

9) In the result, this Criminal Petition is partly allowed and proceedings in FIR No.113 of 2014 of Women P.S Begumpet are quashed insofar as petitioners/A.4—Smt.J.Rajitha and A.5—Prasad Rao are concerned. However, the investigation shall continue to its logical end sofaras other accused are concerned. Police are directed to complete the investigation at the earliest. During the course of investigation, the police shall not arrest the

petitioners/A.2 and A.3. The petitioners/A.2 and A.3 shall cooperate with the investigating agency for smooth completion of investigation.

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

U.DURGA PRASAD RAO, J

Date: 27.01.2015
SCS

[\[1\]](#) (2010) 7 SCC 667

[\[2\]](#) III (2011) CCR 452 (SC)