

**HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

**CRIMINAL PETITION No.6465 of 2015**

-

**ORDER :**

This Criminal Petition is filed by Petitioners/Accused Nos.1 to 5 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.200 of 2014 on the file of IV Additional Judicial Magistrate of the First Class, Warangal where the learned Magistrate has taken cognizance for the offences punishable under Sections 498-A, 506 I.P.C and Sections 3 and 4 of the Dowry Prohibition Act, which is outcome of report of the 2<sup>nd</sup> respondent/defacto-complainant, no other than wife of the 1<sup>st</sup> accused, native of Jangaon of Warangal District, dated 03.01.2014 registered as Crime No.1/2014 by the S.H.O, Woman Police Station, Warangal Urban, from the investigation filed final report that was taken cognizance by the learned Magistrate for the offences supra against the accused.

2) The report of the defacto-complainant dated 03.01.2014 speaks that her marriage with Satish Doraiswamy @ Shyam, S/o.Gavalu Doraiswamy of Bengaluru performed on 29.11.2009 at Jangaon at Purnima Gardens of Jangaon under Hindu law and as demanded by her husband and parents-in-law, sister-in-law and brother-in-law Rs.6,00,000/- towards dowry, 8 Tulas gold besides Rs.1,00,000/- *Pettipothalu* (conventional givings) were met with and she joined her husband at Bengaluru at her in-laws house, their marital life went happily for six months, there her husband is a software engineer, that her husband, father-in-law, mother-in-law, sister-in-law and brother-in-law who are the accused herein all together started harassing her mentally and physically saying what the dowry given at the time of marriage is less than expected, hence to meet additional dowry of Rs.2,00,000/- and on 26.07.2011 unable to bear with their ill-treatment, she consumed Allout liquid to commit suicide and went unconscious and her husband admitted in Vijaya Hospital, Tin factory area of Bengaluru and she was treated and discharged after one day, and her husband and in-laws demanded her not to disclose to anybody, thereby she kept quite and later for some days she was treated well and again they started

demanding and ill-treating for additional dowry and she informed the same to her parents and on 04.09.2010 her parents came to Bengaluru and paid Rs.50,000/- to her husband and asked her husband and in-laws, brother-in-law and sister-in-law to treat her well and later she was treated properly for three months and again they started harassing her and while so on 04.02.2012 at the support of her in-laws her husband beat her and for her questioning he threatened to do away her unless she bring Rs.1,40,000/- for his getting Visa and unable to bear with on 07.01.2013 from her account of State Bank of Hyderabad, Benaganahalli branch, she withdrew Rs.1,40,000/- and deposited in the account of her husband in H.D.F.C bank and later for some days, she was treated well and again they started ill-treating her to bring additional dowry of Rs.2,00,000/- and without giving food by bringing food for their eating from hotel or even kooked for not allowed her to eat, she was ill-treated by them and she informed the same to her parents and on 17.06.2013 her brother-in-law, A.Siddaiah and her brother K.Rama Brahmeswara Rao came to Bengaluru and questioned her husband and his parents and brother and sister, where her husband stated to give divorce to her unless they meet the additional dowry and she was necked out along with them to come out thereby she came to her parents' house and later her husband did not turn up to take her back from Jangaon to Bengaluru and on 15.02.2013, she, her parents and the elders by name A.Balaswamy, B.Ramesh, A.Veenamani, Narasimha went to her husband and in-laws' place at Bengaluru to have a panchat, however they did not allow to enter their house saying they could decide in Court and sent them out hence to take action.

3) A perusal of the very report clearly speaks but for the marriage performed at Jangaon, if at all any part of cause of action therefrom, the entire incident taken place including the demands for additional dowry or ill-treatment only at Bengaluru including in scolding of elders or she was necked out along with her brother and brother-in-law who came to question them while she was in Bengaluru in the in-laws' house.

4) It is the crime registered by Women Police Station of Warangal for the offences supra and investigated and filed the final report that was taken cognizance by the learned Magistrate for the offences supra against the accused, now seeking to quash the same on the grounds that there is no any

cause of action or jurisdiction for the police of Women Police Station, Warangal Urban to receive the report and register the crime and to investigate and file final report or for the learned Magistrate of Warangal to take cognizance for no part of cause of action taken place within the jurisdiction of the learned Magistrate, Warangal and thereby the proceedings are liable to be quashed.

5) The police final report that was taken cognizance by the learned Magistrate, shows there are as many as 13 witnesses including L.Ws 11 to 13 are the police officials who registered the crime, investigated the same and filed final report and arrested and submitted the accused to judicial custody as part of investigation. Among L.Ws 1 to 10, L.W-1 is the defacto-complainant, L.Ws 2, 3 and 4 are her parents and brother, L.W-5 is her brother-in-law, L.W-6 to 9 are shown as elders to the panchayat dated 15.12.2013 at Bengaluru and L.W-10 P.Subrahmanyam of Narayanpur shown as neighbour to accused and eye witness to the so called harassment by them. Even from the above, it shows the entire cause of action is within Bengaluru. Therefrom, coming to the statements of the witnesses concerned, L.W-1 reiterated what is stated in her complaint, further added additionally if at all for jurisdictional purpose in her statement as if in 2010 during Pongal, herself and her husband together came to Jangaon to her parents' house, at that time, her husband and his family members ill-treated her when disclosed to her parents, her parents questioned her husband. There, her husband ill-treated and what they demanded of Rs.2,00,000/- is required to be given. Even if it is taken consideration, it is only at Jangaon and the said version running contrary to the F.I.R contents of what she stated is on 04.09.2010 it is her parents came to Bengaluru on her information about her husband and in-laws demanding Rs.2,00,000/- as additional dowry and for harassment, they came to Bengaluru and gave Rs.50,000/- and pleaded the accused persons not to harass. From her statement, there is nothing to show even any little part of cause of action taken place within the jurisdiction of learned Magistrate at Warangal or Women Police Station, Warangal Urban or even to believe anything taken place at Jangaon as the case is mainly for cruelty and demands for additional dowry everything taken place at Bengaluru and L.Ws 2 and 3, parents of L.W-1 came with same version of L.W-1. L.W-4 also stated of what L.W-1 introduced in her statement, so also L.W-5 brother-in-law, even therefrom, but for that, from their

statements also everything taken place in Bengaluru at the in-laws place of defacto-complainant of any demands for dowry and harassment for meeting of the same or any dispute in relation thereto, including from L.Ws-6 to 9 of they went to Bengaluru to question them about the harassment and they did not allow them to enter into the house and sent away. Coming to L.W-10 who is retired employee of State Bank of Mysore and resident of Bengaluru that she was ill-treated by the accused persons to meet additional demand of Rs.2,00,000/- and Pavitra L.W-1 and he came to know of the same through L.W-1 and he convinced them not to ill-treat, however there was no change in their attitude and she was admitted in Bengaluru hospital once when she consumed Allout liquid and other facts. Even therefrom, at the cost of repetition, everything taken place in Bengaluru and nothing taken place in Warangal, within the jurisdiction of S.H.O, Women Police Station or the learned Magistrate for the learned Magistrate to take cognizance despite the bar under Chapter XIII Cr.P.C covered by Sections 177 to 189 Cr.P.C. In fact, the Apex Court in ***Y.Abraham V. Inspector of Police*** in similar facts held in quashing of the proceedings for want of jurisdiction.

6) In fact, the learned Magistrate should not have taken cognizance and the taking of cognizance is by non-application of judicial mind without even jurisdiction for no part of cause of action taken place under Chapter XIII Cr.P.C for taking cognizance under Section 190(i)(b) Cr.P.C. and had the learned Magistrate gone through the facts, he could not have chosen to take cognizance of the offence. Thereby the cognizance taken by the learned Magistrate is liable to be set aside.

7) However, when the material on record shows, there is cruelty and harassment while setting aside the cognizance order of the learned Magistrate, the learned Magistrate is directed to proceed according to law on the pre-cognizance police final report by return for want of jurisdiction, so that the police can forward the record of the concerned police of Bengaluru City for registering any Crime and investigation and to file final report to proceed according to law.

8) Accordingly, to that extent, the quash petition is allowed and the proceedings in C.C. No.200 of 2014 on the file of IV Additional Judicial Magistrate of the First Class, Warangal is quashed. The bail bonds of the

accused, shall stand cancelled. As a sequel, miscellaneous petitions pending, if any, in the above criminal petitions shall stand closed.

---

Dr. B. SIVA SANKARA RAO, J

07.11.2015

ksh