

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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CRIMINAL PETITION No.13752 OF 2013

ORDER:

The petitioner is A.7, resident of USA, working as Engineer there, whose name was Peddinti Seshagiri, in fact wrongly referred in the complaint as Peddintigiri, with father's name correctly referred as Prabhakar Rao and in the very complaint filed to refer for police investigation, his name and address mentioned supra as resident of USA with the private complaint dated 02.07.2012, there is no proof that the 2nd respondent/ de facto complainant filed a complaint before the WPS, CCS, Hyderabad, prior to private complaint. Leave as it is, even taken for granted the complainant earlier given report to police, prior to the private complaint and subsequently for no action taken filed the complaint, what the allegations from the very complaint so far as the petitioner/A.7 concerned are that A.7 is close relative of A.1 to A.3. What the wording of Section 498-A I.P.C. speaks is whoever being the husband or relative of husband of women subjects such women to cruelty..... So it must be shown, he is the relative of the husband of the victim.

02. In fact, it is the submission of the quash petitioner/ A.7 that he is not at all relative to A.1, because his mother-in-law is elder sister of A.1's Mother/ A.2 and thereby he is not at all relative even to A.2, but for A.2's Sister. Thus, suffice to say the offence under Section 498-A has no application from that relationship. The private complaint is filed for the other offences punishable under Sections 420, 498-A and 506 read with 34 I.P.C. and Sections 4 and 6 of the Dowry Prohibition Act. From the very complaint averments, at paragraph 2, A.4 to A.7 being close relatives of A.1 to A.3 brought the marriage proposal of the de facto complainant in the year 2010 and subsequently A.2 to A.5 had the marriage proposals and also talks with father of the de facto complainant. There is thus but for

A.7 also there in the initial proposal, nothing more to say any participation in further marriage talks or fixing much less of in any demand for dowry or any subsequently additional dowry demand after marriage. Further what more at paragraph 6 in the private complaint averred is that after marriage, A.1 being resident of USA, and left India in the end of July 2011 and sent VISA papers to the de facto complainant and therefrom, she went to USA on 09.11.2011 and joined A.1-her husband. According to her A.1 pressurized her to drink alcohol and dance with strangers, stating that they are his friends and the other allegations are against A.1 that he is addicted to bad vices and every night coming in drunken condition and harassing. So far as the petitioner/A.7 concerned claiming as brother-in-law, which is not correct as referred to supra, he and his family including his brother, Karthik forced her to drink when complainant and A.1 visited their place during Christams 2011. The so called forcing to drink alcohol was admittedly happened in USA and nothing in India, to maintain the private complaint much less before the Women Police Station, CCS, Hyderabad, or for referring the same by learned Magistrate concerned to police or for the police to register the crime for investigation and to file final repor. Further even therefrom for the learned Magistrate to take cognizance, there is bar under Section 188 Cr.P.C. without permission of the Central Government vide expression of the Apex Court reported in

Thota Venkateswarlu v. State of Andhra Pradesh^[1].

03. As per the expression of the Apex Court in **Geeta Malhotra v. State of U.P.**^[2] clearly laid down that there must be existence of territorial jurisdiction to take cognizance and there also must be a specific allegation to attract provision of the offences alleged so far as any of the relatives of the husband concerned and without which they cannot be prosecuted based on vague allegations without specific incidents and in such matters the proceedings are liable to be quashed. Thus from what is referred supra, so far as the petitioner A.7 concerned besides bar under

Section 188 CrPC there is no worth allegation of any offence much less in India and much less within the jurisdiction of the Police or Magistrate concerned to file complaint or to take cognizance or to refer to police for investigation and filing of report for taking cognizance by learned Magistrate. What more the allegation in paragraph 8 of the private complaint is the family of Mrs. Sujatha and Mohan Rao (referred as A.4 to A.7) actively hatching and abetting the crime along with A.1 to A.3. Sujatha and Shanti Jagadish are the real sisters and Sujatha had one daughter, Bindu married the petitioner, and one son Yerra Karthik. He is also suffering from Ankylosing Spondylitis, the so called Spondylitis spreaded genetically from his mother's side. There is no specific allegation in this regard so far as A.7 concerned. From reading of paragraph 8 of complaint, it speaks that when A.7 being intelligent grasped the opportunity to get bail for his brother-in-law, Atulya Teja/A.1 and suggested the alliance, the other accused 2 to 5 actively prevailed for settling the alliance. Even there from what is stated is A.7 suggested. It is not even her case that A.7 earlier knows any so called ill health or Spondylitis of A.1 and intentionally made a suggestion. The other allegations during her stay at USA are, accused persons used to talk with parents of A.1 and uncles and aunts and A.7 etc and with their active instigation she was harassed by A.1 physically and mentally at USA. This is a vague allegation against A.7 won't survive to prosecute A.7 as laid down in **Geetha Malhotra** (supra). Thus so far as against A.7, from the very private complaint running in several pages, that was referred to police by the learned Magistrate, is by non-application of Judicial mind as to any cognizance offence made out or not while referring the complaint to police.

04. Having regard to the above, the proceedings in C.C. No.315 of 2013 of WPS, CCS, Hyderabad taken cognizance by the XIII Additional Chief Metropolitan Magistrate, Hyderabad, are quashed in so far as A.7

concerned.

05. Needless to say any warrants or look out notices pending if any ceases its efficacy to withdraw as unenforceable by virtue of this order so far as those pertain to the crime supra.

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

Dr. B. SIVA SANKARA RAO, J

09.12.2015

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[\[1\]](#) AIR 2011 SC 2990

[\[2\]](#) 2012(iii) DMC-482 (SC)