

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.528 of 2012

ORDER:

1. This Criminal Petition is filed seeking to quash the proceedings against the petitioners-A1 to A3 in C.C.No.1330 of 2011 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam.

2. The case of the prosecution in brief is as follows:

The marriage of the 2nd respondent- de facto complainant with A1 was performed on 8.5.2009. The accused took Rs.20 lakhs cash, gold ornaments as dowry. A1 refused for biological union with the 2nd respondent on some lame excuses. During their journey to Tirupathi in a car, A1 held both the ears of the 2nd respondent and crushed till she wept. A2 and A3 did not object the behavior of A1. After few days, A1 and the 2nd respondent left to USA and A1 harassed her both mentally and physically stating that the dowry given to him was not sufficient. He did not allow her for biological union. He also did not allow her to pursue her higher studies. A1 inflicted injury to her and did not provide her any medical help. When she informed to A2 and A3, they also demanded additional dowry and one house in Visakhapatnam to be registered in her favour and then only, they would see for good relation between them. Being unable to bear the harassment, she came to her in-laws' house and they also harassed her and they demanded additional dowry. They necked out her from their house. She came to her parents' house and then the accused used to harass by sending messages over internet by hacking her website and subjected her to cruelty and harassment.

3. The grounds on which the petitioners filed this petition are as follows:

After marriage, the 2nd respondent stayed for four days in her in-

laws' house and thereafter she went to USA along with A1 and after returning to India, she stayed in her in-laws' house for only 10 days and thereafter, she went to her parents' house and did not return to matrimonial home. Then, A1 filed OP for restitution of conjugal rights and after issuance of summons in the above O.P, she filed DVC case against the petitioners. While the above cases are pending, the 2nd respondent filed the present complaint against the petitioners in order to harass the petitioners.

4. Sri Ch. Srinivas, learned Counsel appearing for the 2nd respondent vehemently argued that this is a case for trial and the proceedings in the above C.C. cannot be quashed at the threshold.

5. Learned Counsel for the petitioners submitted that the 2nd respondent stayed with A2 and A3 for a period of 17 days. No specific allegations were made in the complaint against them.

6. From the material on record, it is clear that both the de facto complainant and the 1st petitioner resided in USA. As per the allegations made in the complaint against the 1st petitioner, all the acts of alleged harassment took place in USA. Any of the alleged acts of cruelty or demand of dowry had not taken place in India. All the acts took place abroad. Therefore, the prosecution sanction under Section 188 Cr.P.C. is required. But no such sanction was obtained.

7. From the contents in the complaint, it is apparent that no specific allegations were made against petitioners 2 and 3, except some allegations against the 1st petitioner-A1. In the complaint, it is not stated as to the manner in which, the de facto complainant was subjected to harassment, and as to the acts of such cruelty attracting the ingredients of Section 498-A IPC. Further, the period of stay of the 2nd respondent in her matrimonial home is very short. Further, the

cases filed by the petitioner No.1 as well as the 2nd respondent i.e., O.Ps and DVC are pending before the Courts concerned.

8. Considering the above facts and circumstances of the case and in view of the pendency of the OP and DVC cases between the parties, this Court is of the view that this is a fit a case to quash the proceedings in the above C.C. against the petitioners.

9. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners-A1 to A3 in C.C.No.1330 of 2011 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam.

RAJA ELANGO, J

Dated:23.7.2015

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