

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5315 of 2015

ORDER:

Petitioner Nos.1 and 2 are A2 and A3 among three accused of C.C.No.199 of 2014 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad, where the learned Magistrate has taken cognizance for the offences punishable under Sections 498 A and 506 of IPC and also Sections 3 and 4 of Dowry Prohibition Act, which is out come of the report of the first respondent/*defacto* complainant in Crime No.18 of 2014 dated 02.02.2014 who is no other than wife of the first accused.

The report of the *defacto* complainant at Mugalpura, Hyderabad in registering Crime reads that she is wife of A1. Their marriage was performed on 12.05.1999 at Shalibanda tied under Hindu Law and they are blessed with a son Master Manish Kumar. At the time of her marriage her parents gave dowry of Rs.2 lakhs cash and gold of 10 tulas as per demand and after marriage, she joined her husband in in-laws house, Karmanghat of Ranga Reddy District and they lived happily for two years and thereafter her sisters-in-law Bharathi and Susheela and her husband started torturing and harassing including physically to bring additional dowry, even after her parents paying Rs.3 lakhs in the year 2002, they started harassing again some time later for additional dowry and in the year 2008 her husband and the two sisters-in-law thrown her out of the matrimonial house to meet the demand of additional dowry and many a time her family members tried to solve the problem and while so on 02.02.2014, she came to know that her husband Anand Kumar is going to perform second marriage at Sidillagutta, Shamshabad, she informed to police and the police personally came there and stopped the marriage and thereby the complaint is given to take action. The report received on 02.02.2014 at 12.30 noon and registered as Crime No.18 of 2014 for the offences under Sections 498 A and 506 of IPC and Sections 3 and 4 of Dowry Prohibition Act against the three accused.

The *defacto* complainant in her statement to the police during investigation reiterated the said incident. LW.2 mother of the *defacto* complainant also reported that on 02.02.2014 they came to know that Anand Kumar was going to perform

second marriage at Sidillagutta and they informed to local police. LW3 brother of *defacto* complainant also reiterated the same, LW4 one Raja Ratnam of Moghulpura stated that he is close friend of *defacto* complainant's father and on 02.02.2014, he received information from brother of Chandrakala about Anand Kumar, husband of Chandrakala was going to perform the second marriage at Sidillagutta temple and immediately they along with police personnel went to Sidillagutta temple and on enquiry the temple authorities refused to give information and they noticed the marriage arrangement in the Satram of the temple and said Anand Kumar in the marriage dress and was about to undergo second marriage and the police there stopped the marriage and picked Anand Kumar into custody and handed over to Moghalpura Police Station and there they lodged the report. LW5 Sri Chathan Kumar Suri claimed to be friend of *defacto* complainant-Chandrakala's family also reiterated what LW3 stated so also LW6 Krishna Yadav, LW7. The Assistant Sub Inspector of RGI Airport Police Station along with his staff apprehended the said Anand Kumar and stopped the marriage proposed to be performed and handed him over to the Station House Officer for necessary action. So also by LW8 police constable Malikarjun, LW9 Head Constable, LW10 Junior Clerk of Sidheswara Temple, Sidillagutta, speaking about the said marriage arrangement informed that the police came there and apprehended the accused and LW11 Siva Rama Prasad constable of Moghalpura Police Station deposed about taking custody of Anand Kumar from RGI Airport Police and handed over to SHO Moghalpura for necessary action. The remand report of A1 who was arrested on 02.02.2014 as referred supra reiterates the same. The quash petitioners A2 and A3 denied the allegations made by the first respondent, who lodged a false complaint against the petitioners while alleging that the marriage between *defacto* complainant and A1 was performed on 12.05.1999 and they were blessed with male issue in their wedlock, that the *defacto* complainant has been residing at her parents for the past 14 years subsequent to the birth of the child on 29.05.2001, out of their wedlock on 12.05.1999 that even several attempts made to bring her back to join his company became futile and he got issued legal notice dated 19.11.2007 asking her father to send her to his marital life and having issued reply stating the false allegations for which rejoinder also issued and *defacto* complainant's brother filed O.S.No.2569 of 2007 on the file of X Additional Senior Civil Judge, Fast Track Court, Hyderabad against A1 Anand Kumar herein with false claim of there is a hand loan given at Rs.3 lakhs i.e., contested and ultimately the Suit was ended in dismissal on 24.09.2012 and

thereafter even Anand Kumar made efforts to secure his wife. She failed to join and the *defacto* complainant and her family members sent unsocial elements against Anand Kumar and threatened him and out of grudge later foisted the false case having invained in their illegal attempts. It is also contention that no offence is made out against the petitioners/A2 and A3 even in part from entire prosecution material to substantiate and thereby proceedings are liable to be quashed. It is also the contention that the second accused got school going children and she is a widow residing separately after marriage with her husband and even now she is falsely implicated and proceedings are thereby liable to be quashed.

Even the police investigation and final report show A2 and A3 who are the quash petitioners herein were arrested and discharged on bail later, that the main incident placed reliance is 02.02.2014 and allegations *defacto* complainant was harassed for additional dowry, reiterated since 2002 and 2008. There is nothing even to say, A2 and A3 were present along with A1 in so called performance of second marriage, apart from in the charge sheet there is no offence under Section 494 read with Section 511 of IPC apart from the same though a cognizable offence as per A.P.Amendment of 1991-1992, no cognizance can be taken by the learned Magistrate comes to a bar under Section 198 Cr.P.C. by private complaint of the victim from the police final report and so far as the offences under Section 498 A, 506 of IPC is concerned, There is nothing to show any criminal intimidation of the *defacto* complainant by the petitioners/A2 and A3 and even taken for argument sake, the two incidents of alleged demands for additional dowry made by A2 and A3 Sisters of A1 in joining with A1 against the *defacto* complainant of the year 2002 and of the year 2008, the present report received and registered was on 02.02.2014 and the same is punishable upto 3 years from the cause of action approved barred by limitation even under Section 468 of Cr.P.C. Thereby, so far as petitioners/A2 and A3 are concerned, there is no offence of act sustained equally for the offences under Sections 4 and 6 of the Act punishable below one year also barred by limitation.

Having regard to the above even the learned Magistrate taking cognizance of the case on file for the offences supra against the petitioners/A2 and A3 also vide

docket order dated 07.08.2014 in alleged C.C.No.199 of 2014 and issue summons as the same is barred by limitation apart from no specific allegations are required by law and also from the factual matrix also the very enthusiasm in representing petitioners/A2 and A3 also as laid down in ***Preethi Gupta and another Vs. State of Jharkhand and another*** proceedings of the CC taken cognizance by the learned Magistrate so far as the accused/petitioners is liable to be quashed.

Accordingly and in the result, petition is allowed and the proceedings in C.C.No.199 of 2014 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad are quashed in so far as the petitioners/A2 and A3 only. Bail bonds of the petitioners/A2 and A3, if any, stands cancelled.

Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date: 14.10.2015

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