

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.13227 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioners/A.4 and A.5 seek to quash the proceedings in C.C.No.592 of 2012 on the file of II Additional Munsif Magistrate, Ongole wherein petitioners and other accused were charge sheeted for the offences under Sec.498-A r/w 34 IPC, Sec.3 & 4 of D.P Act.

2) The *defacto* complainant is the wife of A.1; A.2 is the father, A.3 is the mother, A.4 is the brother and A.5 is the sister of A.1 respectively. Accused are residents of Guntur District whereas the *defacto* complainant belongs to Ongole District. The *defacto* complainant lodged report in Ongole I Town P.S alleging that the marriage between her and A.1 was solemnized according to Hindu Dharma Shastra in Railway Marriage Function Hall, Ongole on 02.08.2012. At the time of marriage, the parents of *defacto* complainant gave Rs.4 Lakhs as dowry in two spells i.e, on 15.07.2012 and at time of engagement and also gold ornaments worth Rs.3 lakhs and also Rs.50,000/- as Aadapadachu lanchanam. Thereafter the *defacto* complainant joined A.1 at her matrimonial home at Guntur. After few days, A.1 to A.5 being unsatisfied with the given dowry, started quarreling with *defacto* complainant. A.2 to A.5 hatched a plan that A.1 would get huge dowry amounts if they perform second marriage to A.1. So, they demanded

the *defacto* complainant to bring additional dowry of Rs.2 lakhs to continue conjugal life with A.1, failing which, they would divorce her and arrange second marriage to A.1 with another girl and they left her at parental home on 13.09.2012. On the night of 04.11.2012 at about 8:00pm, all the accused A.1 to A.5 came to the house of *defacto* complainant and abused her and her parents and demanded her additional dowry amount and threatened her to sign on some documents and stated that if she failed to give the additional dowry amount, they would give her divorce. On her complaint, the police registered a case in Crime No.276 of 2012 for the offence under Sec.498A r/w 34 IPC, Sec.3 & 4 of D.P. Act and after investigation filed charge sheet against the A.1 to A.5 for the offences Sec.498A r/w 34 IPC, Sec.3 & 4 of D.P. Act.

Hence, the instant application by A.4 and A.5.

3) Heard Sri V.V.S.S.Kameswara Rao, learned counsel for petitioners; Sri K.Sarva Bhouma Rao, learned counsel for 2nd respondent/*defacto* complainant and learned Public Prosecutor for the State (A.P).

4) Vehemently contending that the charge sheet allegations against all the accused in general and against A.4 to A.5 in specific are false and inherently improbable, learned counsel for petitioners would submit that the petitioners/A.4 and A.5 are the unmarried brother and sister of A.1 respectively and except their staying with A.1, they have nothing to do with the

alleged disputes between A.1 and *defacto* complainant and they have not committed any offence as alleged. He argued that they are unnecessarily roped in the case so as to bring down A.1 to the terms of the *defacto* complainant.

a) In his attempt to project the frailty and inherent improbability in the case of prosecution, learned counsel firstly contended that admittedly the marriage between A.1 and *defacto* complainant was held on 02.08.2012 and few months thereafter all the accused allegedly threatened her to bring additional dowry lest they should obtain divorce and perform second marriage to A.1 to get more dowry. He forcibly argued that no law which applies to the parties will afford a decree of divorce within few months after marriage and therefore, the accused would not have in their wildest dreams perceived of obtaining a divorce from the *defacto* complainant howsoever ever strongly they might have wished. Therefore, the allegation that on the threat of getting divorce they demanded additional dowry is nothing but a myth and concoction.

b) Then refuting the allegation that on 04.11.2012 at about 8:00pm, all the accused went upon the house of *defacto* complainant at Ongole and forced her to sign on divorce papers and threatened her with dire consequences if she refuse to accede their demand, learned counsel argued that the said allegation is palpably false inasmuch as on the alleged date of incident, A.1 attended a written examination for the post of Assistant Engineers in A.P Public Health and

Municipal Engineering Sub-Ordinate Service in Chaitanya Junior College, Manjeera Water Works road, Hydernagar, Miyapur at Hyderabad in forenoon and afternoon and therefore, it is humanly impossible for him to return to Ongole by 8pm to join other accused to threaten the *defacto* complainant as alleged. Producing the Photostat copies purporting to be the hall ticket and letter given by the Section Officer, A.P. Public Service Commission, Hyderabad, he argued that the said allegation is baseless. He thus prayed to allow the petition and quash the proceedings against petitioners/A.4 and A.5.

5) Per contra, denouncing the petitioners comment that they were unnecessarily roped in the case, learned counsel for 2nd respondent/*defacto* complainant argued that in the complaint and 161 Cr.P.C statements, the *defacto* complainant made clear and specific allegations against all the accused including the petitioners how they ill-treated her in the matrimonial home and also how they threatened her at her parental home demanding her to sign on the divorce papers and therefore, it is preposterous for the petitioners to contend that they are innocent and no case is made out against them. He further argued that since A.1 took the plea of *alibi* with regard to the incident dt.04.11.2012, the veracity of the said plea and authenticity of the documents have to be determined only after trial and not at this stage. He thus prayed to dismiss the petition.

6) Learned Public Prosecution also argued in the same lines.

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

“Whether there are merits in this petition to allow”

8) **POINT:** I have carefully scrutinized the complaint, 161 Cr.P.C statements and the charge sheet to know whether there is any tangible material against petitioners/A.4 and A.5 projecting specific allegations of their complicity in the offences under Sec.498-A r/w 34 IPC and Sec.3 & 4 of D.P. Act. The specific allegations against A.1 to A.3 are that within few months after marriage, A.1 who is the husband of *defacto* complainant started harassing her for additional dowry of Rs.2,00,000/-, A.2 and A.3, who are her parents-in-law also supported him and beat her and all of them caused burn-scars on her hands. They used to taunt her that she was ugly and not tall and threatened that if she failed to get additional dowry, they would obtain divorce and perform second marriage to A.1. So far as petitioners/A.4 and A.5 are concerned, the specific allegation against them is that they too supported A.1 to A.3 and they beat her on her head and forced her to bring additional dowry. It is further alleged that on 13.09.2012, all the accused beat her and left her in her parental home. Then it is also alleged that on 04.11.2012 all the accused went to her parental home and forced her to sign on divorce papers and

demanding her to pay additional dowry of Rs.2 Lakhs or to sign on the divorce papers. When she refused to sign, her husband and mother-in-law pressed her neck and beat her with hands and legs and all the accused abused her parents in filthy language. In her 161 Cr.P.C statement also the *defacto* complainant stated in the similar manner. LWs.2 and 3—parents and LW.4—sister of *defacto* complainant also gave similar statements. Further, LW.5—Talamanchi Polaiah, a watchman in Laxmi towers, 4th lane, Bhagya Nagar, Ongole and LW.6—M.Narsa Reddy, resident of same 4th lane, Bhagya Nagar, Ongole, who are the neighbours of the *defacto* complainant deposed about the incident occurred on the night of 04.11.2012. Therefore, the materials produced by the prosecution divulges a *prima facie* case against all the accused including the petitioners/A.4 and A.5. The allegations levelled against them are specific in nature but not omnibus or general type. As rightly contended by learned counsel for *defacto* complainant, the *alibi* plea need to be tested during trial. In view of existence of *prima facie* case against petitioners, the criminal proceedings cannot be ordered to be quashed. The petitioners cited several decisions wherein, basing on the facts relating to those cases, proceedings were ordered to be quashed. However, having regard to the facts relating to the instant case, such order cannot be passed.

9) Therefore, this Criminal Petition is dismissed with a direction to the petitioners/A.4 and A.5 to appear before the

trial Court and establish their defence.

As a sequel, miscellaneous petitions pending, if any,
shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 05.08.2016

SCS