

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1631 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., petitioners/A.1 and A.2 seek to quash the proceedings in C.C.No.142 of 2012 on the file of XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar.

2) The first petitioner is the mother-in-law of the 2nd respondent/*defacto* complainant and 2nd petitioner is the brother of 1st petitioner. The 2nd respondent gave report to the Police of Women P.S, Saroornagar, Cyberabad alleging that her marriage with one D.Harish was held on 06.05.2011 and thereafter she joined his society. Herself, her husband and her parents-in-law used to live together and her husband used to look after her well but her mother-in-law i.e, 1st petitioner used to pick up quarrel with her for every petty issue and used to abuse her as she was black and not beautiful and her parents did not pay sufficient dowry. In that fashion she used to abuse the complainant every day. She was also abusing as if the complainant was having illicit relations and she used to poison the mind of her husband. She demanded the complainant to bring additional dowry of Rs.2,00,000/-. While-so, it is further alleged that the 2nd petitioner who is the elder brother of 1st petitioner used to give ill-advice on phone to 1st petitioner to

harass the complainant. On being so advised, the 1st petitioner used to abuse her in filthy language everyday. Unable to bear their torments, the complainant thought of committing suicide also. It is further alleged that on 09.07.2011, the 1st petitioner severely abused the complainant and harassed her to go away from the house and also goaded her son to send away his wife i.e, complainant from house and if she failed to leave the house, she would file a false case against the complainant. With these allegations, the complainant lodged FIR No.192/2011 with W.P.S, Saroornagar and the police after investigation laid charge sheet against the petitioners/A.1 and A.2 for the offence under Sec.498-A IPC. Learned XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar accepted the charge sheet and registered as C.C.No.142 of 2012.

Hence the instant petition.

3) Notice in this petition was ordered to 2nd respondent/*defacto* complainant but the postal cover was returned with the endorsement as unclaimed on 26.01.2013. Heard arguments of Sri Vijay Ashrit, learned counsel for petitioners and learned Public Prosecutor for the State (Telangana).

4) Vehemently denying the charge sheet allegations, learned counsel for petitioners submitted that there are disputes between the 1st petitioner and her son i.e, the

husband of the 2nd respondent in respect of a mulgi which is the personal property of the 1st petitioner and in that context, exchange of notices took place between the mother and son as the son claimed the property as his own which was denied by the 1st petitioner in her reply notice and due to these differences and disputes, since long the 1st petitioner has been taking shelter in the house of her elder brother i.e, 2nd petitioner. In order to bring down the 1st petitioner to his terms, her son conspired with his wife i.e, complainant and got presented a false report and managed the police to file a charge sheet. Learned counsel forcibly argued that the allegations in the charge sheet besides being false are inherently improbable inasmuch as the complainant in her FIR claimed as if within short time after the marriage, the 1st petitioner who is her mother-in-law started harassing her and advising her son to ill-treat the complainant. This allegation is palpably false because within short time after their marriage, disputes arose between son and mother in respect of the ownership of mulgi and it went to the extent of exchange of legal notices and further, 1st petitioner was forced to leave the house of her son and take shelter in the house of 2nd petitioner. In that backdrop, he argued, it would be highly improbable that the 1st petitioner would ill-treat and abuse her newly wedded daughter-in-law. Further, when the terms between mother and son were not cordial, it would be

improbable that the 1st petitioner would poison the mind of her son alleging that the complainant was having illegal relations and it is also improbable that she would advice him to send away the complainant from the house. When the relation between the mother and son was strained, the question of 1st petitioner giving any advices muchless ill-advices against his wife and his listening them would not arise. Learned counsel further argued that as per the notice dt:13.08.2011 issued by the husband of the complainant to his mother, sister and tenant, the 1st petitioner left his house on 09.07.2011 and went away and he did not know about her whereabouts and finally he came to know that she was residing in the house of her brother. If that is true, the question of 1st petitioner abusing the complainant and demanding her to leave the house on the very same day i.e, 09.07.2011 as alleged in the FIR is nothing but a blatant false allegation. Learned counsel argued that the notice was issued by the husband of complainant on 13.08.2011 with all false allegations claiming right in the mulgi for which the 1st petitioner gave a befitting reply on 16.09.2011 and unable to challenge her legal right in respect of that property, the husband of the complainant got filed the police complaint on the very next day i.e, on 17.09.2011. All these incidents would belie the veracity of the charge-sheet allegations and continuation of the criminal proceedings basing on such false allegations would amount to abuse of process of the Court. He thus prayed to allow the petition and

quash the proceedings in C.C.No.142 of 2012.

5) Per contra, opposing the petition learned Public Prosecutor argued that earlier the petitioners filed CrI.P.No.13233 of 2011 seeking to quash the FIR in Crime No.192 of 2011 but the High Court did not quash the proceedings and directed the police to complete the investigation. Having thus failed to get the FIR quashed, learned Public Prosecutor argued, the petitioners again filed the instant petition in the second round of litigation to quash the C.C. He argued that the differences if any between the son and mother have nothing to do with the present case. The accusations made against the petitioners/A.1 and A.2 in the charge sheet are true and the veracity of the allegations can be well established by the prosecution during trial and therefore, the petition may be dismissed.

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

“Whether there are merits in this petition to allow?”

7) **POINT**: On a careful analysis of the facts narrated in the FIR, charge sheet and material papers submitted by the petitioners, I find considerable force in the submission of petitioners. Admittedly the marriage between the *defacto* complainant and Harish, the son of 1st petitioner took place on

06.05.2011. According to the legal notice dt:13.08.2011 issued by the said Harish to his sister, mother (1st petitioner) and their tenant, copy of which is filed along with material papers, the 1st petitioner left his house on 09.07.2011 without intimation and he did not know her whereabouts and ultimately he came to know that she was residing in the address mentioned in his notice i.e, in the house of the 2nd petitioner and also in the house of her daughter. So the facts in this case would show that marriage took place on 06.05.2011 and the 1st petitioner left the house of her son on 09.07.2011 and therefore, the complainant, her husband and her parents-in-law lived together for a brief period of two months only. The point is, during that short tenure whether the 1st petitioner on the advice of 2nd petitioner abused and harassed her in the manner mentioned in the FIR and charge sheet. The facts would show that such a course is highly improbable and unlikely. The reason is that going by the facts narrated in the legal notice dt:13.08.2011 got issued by the Harish, there were simmering disputes between himself, his mother and sister in respect of a shop in the commercial complex even by the date of his marriage. He claimed a right in that shop and alleged in the notice that his mother and sister were trying to alienate the said shop. Therefore, in his notice he called upon them to transfer the lease deed in respect of that shop in his favour and also called upon the addressee No.3 i.e, tenant to pay the rents to him. Ofcourse the 1st petitioner got issued a reply

notice dt:16.09.2011 through her counsel. Thus these facts would show that even before the marriage of the complainant, the relations between mother and son were strained and the 1st petitioner lived in the son's house only for few months after the marriage with the complainant. In that backdrop, as rightly argued by the learned counsel for petitioners, it is highly unlikely and improbable that during that short period when complainant and petitioner No.1 were under same roof, the 1st petitioner abused and ill-treated the newly wedded daughter-in-law and at the instance of the 2nd petitioner she poisoned the mind of her son as if the complainant was having illicit relations and goaded him to neck out the complainant from the house. Running the risk of repetition, when the 1st petitioner and her son were not in good terms, it is quite improbable that she would give ill-advice against his wife and he would heed them. I find the allegations in the FIR that on 09.07.2011, the 1st petitioner abused the complainant and harassed her to leave the house is palpably false and inherently improbable for the reason that as per the notice dt:13.08.2011 on the very same day i.e, 09.07.2011, the 1st petitioner left the house of her son due to disputes with him and admittedly her whereabouts were not known for sometime. When the 1st petitioner herself left the house on 09.07.2011 due to disputes with her son, it would be again highly improbable that on that day she would abuse and harass her daughter-in-law to leave

the matrimonial home. So when the entire facts and materials are taken into consideration, it would appear that the complainant and her husband conspired together and filed a false case against the petitioners and this doubt intensifies for another reason that the reply notice was issued by the 1st petitioner on 16.09.2011 and the police report was lodged on the very next day i.e, 17.09.2011. Therefore, I find any amount of force in the argument of petitioners to the effect that the present case is a counter blast to the reply notice issued by the 1st petitioner. In ***State of Haryana and others vs. Ch. Bhajan Lal and others***^[1], the Honourable Apex Court has given several guidelines when a High Court can quash the criminal proceedings by exercising its inherent jurisdiction. One of such guidelines is thus:

“(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.”

In the instant case also, the allegations leveled in the FIR and charge sheet even if taken to be true and compared with the true facts particularly the facts mentioned in the legal notices exchanged between the parties, they would appear to be absurd and inherently improbable. Merely because the quash petition filed by the petitioners was dismissed during the crime stage, that cannot be a ground to discard their request when they could present a strong case as narrated supra.

8) In the result, this Criminal Petition is allowed and proceedings in C.C.No.142 of 2012 on the file of XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, against petitioners/A.1 and A.2 are quashed.

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

U.DURGA PRASAD RAO, J

Dt: 02.06.2016

scs

[\[1\]](#) AIR 1992 SC 604