

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.9604 of 2012

ORDER:

This Criminal Petition is filed by the petitioner – accused No.2 under Section 482 Cr.P.C., to quash the proceedings against him in CC No.939 of 2009 on the file of I-Additional Chief Metropolitan Magistrate, Visakhapatnam, for the offence under Section 498-A r/ w.34 IPC.

Heard and perused the material available on record.

The case of the prosecution is that A1 is the husband of the 2nd respondent and their marriage was performed four years prior to lodging the complaint by the 2nd respondent. They lived happily for about three years. Out of their wedlock, they blessed with a male child. Thereafter, A1 developed illicit intimacy with one Bhavani of Rajolu village and used to borrow loans, failed to attend his job and used to harass the 2nd respondent physically and mentally. When the 2nd respondent questioned about his behaviour, he stated that he borrowed Rs.3,00,000/- and if she bring that money from her parents, he would leave said Bhavani and would treat the 2nd respondent properly. The petitioner-accused No.2, who is the brother of A1, instigated A1 and also advised 2nd respondent to hear of A1. Therefore, the 2nd respondent lodged the present complaint against A1 and A2 for the offence under Section 498-A r/ w.34 IPC. After completion of investigation, the police filed charge sheet before the Court concerned, and the same was numbered as CC No.939 of 2009.

Heard and perused the material available on record.

The learned counsel for the petitioner submits that the main allegations are against the husband of the 2nd respondent i.e. A1 only and that the petitioner herein is nothing to do with the affairs between the 2nd respondent and A1 and he was falsely implicated in this case. He further

submits that the petitioner is residing at Annavaram whereas the 2nd respondent and her husband are residing at Rajole, where A1 is working, and the contents of the complaint as well as the charge sheet do not constitute the offence under Section 498-A IPC and therefore, he prays to allow the petition.

The allegations against the petitioner as per the charge sheet are as follows:

“..... While it is so, A1 developed illicit contact with one Bhavani of Rajolu village since one year used to borrow loans, failed to attend job and harass her both mentally and physically. When she questioned A1 about his illegal contract with Bhavnai, A1 used to say that he borrowed 3 lakhs due to friendship with Bhavani and he would treat her properly by disconnecting relation with Bhavani, if she could bring the said amount by convincing her parents otherwise he would leave her and marry Bhavani. When she informed A2, the brother of A1, A2 also supported the version of his brother. From the beginning of marriage A2 was instigating A1 towards herself. When L.W.1 contacted the parents of Bhavani and begged them to do her justice by admonishing their daughter Bhavani not to have any contacts with A1, but they did not hear her words and further stated that they would marry her husband with Bhavani. It is also reported to A2, but A2 replied to follow the advise of A2, his brother.”

Even admitting the above allegations are true, the same would not attract the offence under Section 498-A IPC against the petitioner. Hence, this Court is of the view that the proceedings in CC No.939 of 2009 against the petitioner –A2 are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner –A2 in CC No.939 of 2009 on the file of the I-Additional Chief Metropolitan Magistrate, Visakhapatnam, are hereby quashed. Miscellaneous Petitions, pending if any, shall stand closed.

RAJA ELANGO, J

September 23, 2016.
KTL