

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.1255 of 2013

ORDER:

In this petition filed under Sec.482 Cr.P.C, the petitioners/A.1 and A.2 are seeking to quash the proceedings in C.C.No.292 of 2011 on the file of XIV Metropolitan Magistrate Court, Cyberabad at L.B.Nagar, Ranga Reddy District whereunder they were charged for the offence under Sec.498-A IPC. A.1 is the son of A.2.

2) The second respondent gave report to Police of Women P.S, Saroornagar, Cyberabad on 02.06.2011 with the allegations that the accused are residents of Dharwada in Karnataka State and her marriage with A.1 held on 07.05.2006 in S.K.Garden Function Hall, L.B.Nagar and at the time of marriage, her parents presented Rs.3,00,000/- dowry, 6 Tolas of Gold and other household articles to accused. After marriage, her parents sent her to the house of accused at Dharwada. A.1 is running Travel Agency business at Dharwada. She led happy conjugal life with A.1 for about 6 months and thereafter her travails started. A.2 used to ill-treat her and abuse in filthy language when A.1 went out of the house on his business work. When she informed this fact to A.1, he used to support his mother. Besides he used to come home in a drunken state and beat her. She further alleged that her parents took her to their house on 18.12.2009 for Sankranthi Festival. At that time

they came to know that the complainant became pregnant and when this fact was informed to accused, A.1 did not express any happiness. He did not take back her after Sankranti Festival. So the mother of complainant took her to the house of accused. Thereafter, the accused did not look-after her well and did not provide her suitable treatment as she was pregnant. She returned to her parental home in 7th month pregnancy for confinement. The accused did not phone to her even once to enquire about her health. The complainant gave birth to a male child and as the accused did not take back her, the complainant herself took her 5 months old baby to the house of accused. At that time the accused abused her stating that the boy was not born to him. At that time the complainant came to know that her husband was having illegal intimacy with a girl called Sangeetha and therefore, he was refusing the complainant. When the complainant informed this fact to A.2, she too supported A.1. Hence she returned to her parents. The police registered a case in Crime No.92 of 2011 against A.1 to A.3 for the offence under Sec.498-A IPC and after investigation laid charge-sheet against A.1 and A.2 alone.

3) Heard both sides.

4 a) While denying the charge sheet allegations learned counsel for petitioners firstly argued that they never subjected the *defacto* complainant to any cruelty and it is also not the case of the complainant that they demanded

any additional dowry or valuables and on that ground they subjected her to cruelty. Learned counsel argued that the 1st petitioner works as a driver in a transport company at Dharwada and his mother is a widow aged 62 years and both of them looked after the *defacto* complainant well and inspite of it she gave a false complaint because A.1 did not agree for the proposal of the complainant to shift to Hyderabad to stay along with her parents. It is thus argued that there are no merits in the complaint allegations.

b) Nextly it is argued that even if the complaint allegations are taken to be true, they would reveal that the alleged harassment and cruelty meted out by the accused to her took place in Dharwada, Karnataka State but not at Hyderabad or for that matter in the State of Telangana and hence, no cause of action has arisen within the jurisdiction of the trial Court and therefore, the proceedings in C.C.No.292 of 2011 are liable to be quashed for want of jurisdiction in addition to the lack of merits in the complaint allegations. On the aspect of jurisdiction, he relied on the following decisions:

(1) ***Bhura Ram and others vs. State of Rajasthan and another*** ^[1]

(2) ***Y.Abraham Ajith and others vs. Inspector of Police, Chennai and another*** ^[2]

He thus prayed to allow the appeal.

5 a) Per contra, learned Public Prosecutor argued that the accused ill-treated the complainant and left to her fate in her parental home as A.1 developed illegal intimacy with another lady and his mother also supported his nefarious acts. They further ill-treated the complainant on the allegation that the boy was not born to A.1 and due to all these harassments, she was forced to give complaint and therefore, it is preposterous on the part of the petitioners to content that there are no merits in the charge sheet.

b) Regarding the jurisdiction aspect learned P.P argued that when the complainant was at her parental home for delivery, none of the accused turned up to enquire about her health and they have not even telephoned to her and further when the parents of the complainant informed about the delivery of complainant, the accused did not visit to see the newly born baby and they have not even attended the customary function held on the 21st day after the birth of the son. This attitude of the accused towards the complainant amounts to cruelty and harassment while she was in her parental home and therefore, it cannot be contended that no part of cause of action had arisen at Hyderabad. He thus prayed to dismiss the petition.

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

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

7) **POINT:** A careful analysis of the FIR, charge sheet and 161 Cr.P.C statements of the witnesses reveal that no part of the cause of action has arisen at Hyderabad. As rightly contended by the petitioners, the allegations would show that the entire cruelty and harassment even if taken to be true, were meted out in the matrimonial home of the complainant. Merely because the accused did not turn up to the parental home of the complainant on being informed of the delivery of the complainant, on that ground it cannot be said that they extended their cruel acts at Hyderabad also. In the ***Bhura Ram***'s case (1 supra), Hon'ble Apex Court having found that all the alleged acts of cruelty towards complainant had taken place in the State of Punjab held that the Court at Rajasthan had no jurisdiction to deal with the matter. Accordingly, the Apex Court quashed the proceedings before Additional Chief Judicial Magistrate, Ganganagar in the State of Rajasthan and directed that the complaint be returned to the complainant for presentation before proper Court. In ***Y.Abraham Ajith***'s case (2 supra) also the Apex Court in another instance having found that no part of the cause of action arose in Chennai, quashed the proceedings and directed to return the complaint to the complainant for presentation in a proper Court. This being the precedential law which applies to the case on hand also as no part of the cause of action had arisen at Hyderabad or for that matter within the State of Telangana, I am of the considered view that the learned XIV Metropolitan

Magistrate Court, Cyberabad at L.B.Nagar, Ranga Reddy District has no jurisdiction to try the matter.

8) Accordingly, this Criminal Petition is allowed and the proceedings against the petitioners/A.1 and A.2 in C.C.No.292 of 2011 on the file of XIV Metropolitan Magistrate Court, Cyberabad at L.B.Nagar, Ranga Reddy District are quashed and the learned Magistrate is directed to return the complaint to the 2nd respondent/*defacto* complainant to be presented before the concerned police station or the Court having jurisdiction to deal with the matter.

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

U. DURGA PRASAD RAO, J

Date: 29.03.2016

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[\[1\]](#) 2008(2) Alt (CrI.) 207 (SC)

[\[2\]](#) 2004 (2) ALT (CrI.) 253 (SC)