

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY
CRIMINAL PETITION No.1955 OF 2010

ORDER:

This petition is filed by the petitioners-A2 to A4 under Section 482 Cr.P.C., to quash the proceedings in Cr.No.655 of 2004 on the file of the Subedari Police Station, Warangal District, registered for the offences punishable under Sections 498-A IPC and 3 and 4 of Dowry Prohibition Act, 1961 (for short 'the Act').

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

3. The 2nd respondent herein having received notice did not choose to appear before this Court.

4. The marriage of 2nd respondent herein was performed with A1 on 06-06-2003 as per Hindu Rites and caste customs. Immediately after the marriage, the 2nd respondent joined with A1 to lead marital life. As per the allegations made in the complaint, the petitioners herein along with A1 subjected the 2nd respondent to cruelty for additional dowry of Rs.3,00,000/-. It is further alleged that at the instigation of A2 to A4, A1 subjected the 2nd respondent to cruelty for additional dowry.

5. A perusal of the record reveals that A1 faced trial in C.C.No.759 of 2007 on the file of the IV Additional Judicial First Class Magistrate, Warangal. After full-fledged trial, the learned Judicial I Class Magistrate, vide judgment, dated 08-02-2010 in C.C.No.759 of 2007 found the accused not guilty for the offences punishable under Sections 498-A IPC and 3 and 4 of the Act and accordingly, acquitted him. The relevant portion of the judgment reads thus:

“There is absolutely no evidence as to how and in what manner PW1 was ill-treated or tortured by the accused. There is no evidence forthcoming, which is either clinching or legally acceptable, so as to attract the ingredients of the alleged offences.

Thus, in this case, the prosecution failed to bring out either by direct evidence or by circumstances brought on record that the accused committed the alleged offence. The evidence on record is relatively weak, vague, inconclusive and generated reasonable doubt. This Court while carefully considering the

material adduced by the prosecution found that there are inherent improbabilities and serious infirmities which would cut at the root of the prosecution bringing entire edifice of the construction built up by the prosecution into debris.

Upon a conspectus of the facts and circumstances of the case, as well as discussion aforesaid, it is manifest that the evidence produced by the prosecution fails to bring home the guilt of the accused beyond all reasonable doubt and as such, he is entitled to be acquitted by giving benefit of doubt.

In the result, accused is found not guilty for the offences u/Ss. 498-A and Sec. 3 & 4 of D.P. Act and is acquitted u/S 248 (1) Cr.P.C. His bail bonds shall stand cancelled.”

6. A perusal of the above judgment, which was delivered on merits, clearly indicates that the prosecution failed to prove the guilt of A1 for the offences punishable under Sections 498-A IPC and 3 and 4 of the Act. The petitioners' herein-A2 to A4 are own brothers of A1. It is not uncommon to implicate the family members more particularly, relatives of the husband, in matrimonial cases. No specific overt-acts are attributed against the petitioners herein. The only allegation made against the petitioners is that they instigated A1, who in turn subjected the 2nd respondent to cruelty for additional dowry. When the prime accused was acquitted for the offences with which he was charged, no purpose will be served by forcing the petitioners to face trial. This Court granted interim stay on 04-03-2010 until further orders.

7. This court can quash the criminal proceedings under Section 482 Cr.P.C. in the following circumstances: (1) if the allegations made in the complaint do not constitute any offence much less the offence alleges to have been committed by the petitioner; (2) even if the allegations made in the complaint ex facie taken to be true and correct, there is no possibility of conviction of the petitioner; (3) if the registration of the case against the petitioner is prohibited by any law for the time being in force; or (4) if the registration of crime and continuation of investigation would amount to misuse of process of law.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v State of Punjab**^[1], **State of Haryana v Bhajan Lal**^[2], **V.Y.Jose v State of Gurajat**^[3] and **Teeja Devi v State of Rajasthan**^[4], I am of the considered view that continuation of proceedings against the petitioners–A2 to A4 would certainly amount to abuse of process of Court.

9. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners-A2 to A4 in Cr.No.655 of 2004 on the file of the Subedari Police Station, Warangal District. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 10.03.2016.

Hsd

^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] (2009) 3 SCC 78

^[4] 2015 (1) ACR 564 (SC)