

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.17131 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings in C.C. No.238 of 2016 pending on the file of XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, against the petitioners for the offences punishable under Sections 498-A, 420 and 506 of Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 4 and 6 of Dowry Prohibition Act, 1961 (for short 'the Act').

The main contention in the petitioners is that reason for dispute is totally different and that the allegations made in the charge sheet on its face value would not constitute an offence and that the alleged harassment for failure of the defacto complainant to meet illegal demand of dowry Rs.5,00,000/- is false and that the second respondent is living separately from the first petitioner. It is also contended that the first petitioner sending Rs.5,000/- as maintenance to second respondent, though she refused to join with the matrimonial house, and thereby to defame the petitioners, the present complaint was lodged before the court and the same was referred to the Station House Officer, Begumpet Women Police Station, making serious allegation of subjecting her to cruelty for failure to meet the illegal demand for payment of additional dowry Rs.5,00,000/- by all the petitioners and on the strength of the same, the police registered a crime and issued F.I.R. against the petitioners for the aforesaid offence, later, took up investigation and examined

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as many as three witnesses including the complainant, her father and mother, on the basis of collected material, during investigation, filed charge sheet before the XV Additional Chief Metropolitan Magistrate.

Notice on the second respondent was served, but none appeared on behalf of the second respondent.

The allegations made at last paragraph in page 4 of the charge sheet are very specific that at the time of marriage, as per the demand of A.1 to A.3 the parents of the second respondent had given 10 tulas of gold ornaments, all household articles, and performed the marriage in a grand manner by spending Rs.10 lakhs. These allegations would fall within the definition of 'dowry' as defined under Section 2 of the Act and giving or taking dowry is also an offence punishable under Section 3 of the Act. Thus the allegations referred above would constitute an offence on its face value and punishable under Section 3 of the Act.

It is also alleged that the petitioners subjected the second respondent to cruelty both mentally and physically, blaming her that she did not give birth to a male child and A.1 used to come to house in drunken state, picked up quarrel with her with the support of petitioners 2 and 3, abused her in filthy language and due to unbearable harassment, the second respondent informed the same to her parents, upon which her parents held a panchayat in the month of August, 2013, where the petitioners quarreled with the second respondent, blamed her in different ways, and the parents of the second respondent made sincere

attempts to pacify the issue but the petitioners subjected the second respondent to cruelty demanding additional dowry Rs.5,00,000/-, for her failure to meet the illegal demand of dowry Rs.5,00,000/-. These allegations on the face value, *prima-facie*, would constitute offences punishable under Section 498-A of I.P.C. and Section 4 of the Act.

The other allegation made against the petitioners is that at the time of marriage, they informed that the first petitioner was doing business, earning substantial income Rs.1,00,000/- per month as an Architect, but later it came to the notice of the second respondent that the first petitioner was not earning Rs.1,00,000/- per month, but it would not constitute an offence punishable under Section 420 of I.P.C., since there is no allegation in the complaint and charge sheet that they cheated the second respondent inducing her to part with any property. Therefore, it would not attract an offence punishable under Section 420 of I.P.C. and similarly, the petitioners except demanding additional dowry and subjecting her to cruelty for her failure to meet the illegal demand, no allegation made to constitute an offence punishable under Section 506 of I.P.C.

To constitute an offence punishable under Section 506 of I.P.C., there must be criminal intimidation as defined under Section 503 of I.P.C., but the allegations made in the complaint would not constitute an offence. Therefore, I find no allegation in the charge sheet and the material produced before the court to constitute offence under Sections 420 and 506 of I.P.C. and consequently the proceedings against petitioners for the offence

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punishable under Sections 420 and 506 I.P.C. are liable to be quashed, while permitting the learned Magistrate to try the case against the petitioners for the offence punishable under Sections 498-A and Sections 3, 4 and 6 of the Act, as there exists a ground to proceed against them for the said offences.

Accordingly, the criminal petition is allowed in part, quashing the proceedings against the petitioners in C.C. No.238 of 2016 for the offences punishable under Sections 420 and 506 of I.P.C., while permitting the XV Additional Chief Metropolitan Magistrate, Hyderabad, to proceed against the petitioners for the offences punishable under Section 498-A of I.P.C. Sections 3, 4 and 6 of the Act.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 28.12.2016
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