

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.13715 and 14213 of 2014

COMMON ORDER:

These Criminal Petitions, under Section 482 Cr.P.C., are filed by the petitioners/A.2 to A.5 and A.1, respectively, to quash the proceedings in Crime No.38 of 2014 of Women Police Station, Rajahmundry, East Godavari District, registered against them for the offences punishable under Sections 498-A and 506 of IPC r/w. Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. Respondent No.2 herein lodged a complaint dated 14.04.2014 alleging that her marriage with A.1 was performed on 29.05.2013 at Satyanarayana Swamyvari Temple, Aryapuram, Rajahmundry, at the time of marriage, Rs.2,50,000/- was paid as dowry, presented 2 sovereigns of gold chain and 1 ½ souverigns of gold ring to A.1, that during their stay at Bhilai, Chattisgarh, she was subjected to mental cruelty by abusing her in filthy language and by beating her physically, while pointing out her marital life with the first husband, whose marriage was dissolved, and thereafter they were returned to Rajahmundry and that her husband complained the same to her in-laws and others, then they demanded payment of Rs.2,00,000/- as additional dowry and then she was shocked to the demand and pointing out the

demand by both her husband and in-laws and others, thereupon they beat her severely and unable to bear with the injuries, she telephoned to her brother, immediately he came and asked her to adjust with her husband and in-laws, thereafter her elder sister-in-law - Egala Dhana Lakshmi, on receipt of phone call, came there and all of them beat her, necked her out from the house, but she refused to go anywhere, thereupon her husband and in-laws, Vankala Saradhadevi, Vankala Neelakanteswara Rao, Korada Abilasha @ Priya and Egala Dhana Lakshmi beat her severely and attempted to hang her with dupatta, however, she could save herself from the incident. Thus, on the strength of the above report, the police registered the above crime for the offences referred to above.

3. The present petitions are filed on the ground that the allegations made in the complaint would not constitute any offences alleged, on its face value and that no incident took place at Bhilai and that the complainant was not subjected to any cruelty, so as to attract the offences punishable under Sections 498-A and 506 of IPC r/w. Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

4. Whether this Court can exercise its inherent jurisdiction only in exceptional circumstances sparingly to give effect to any order of Cr.P.C., to prevent abuse of the process of any Court and to secure ends of justice.

5. In R.P. KAPUR v. STATE OF PUNJAB¹, the Apex Court laid down the guidelines in exercise of jurisdiction under Section 482 Cr.P.C., by this Court, viz.,

“(i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice;

(ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;

(iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and (iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge.”

6. In STATE OF HARYANA v. BHAJAN LAL², the Apex Court laid down guideline No.1, that the High Court can exercise its inherent power to quash the complaint under Section 482 Cr.P.C., where the allegations made in the FIR, even if they are taken at their face value and accepted in their entirety, do not prima-facie constitute any offence or make out a case against the accused. Similarly, there are other six guidelines, including of filing of complaint abusing the process of Court, or filing of complaint with an ulterior motive to take vengeance with a malafide intention etc. But, none of these grounds are raised before this Court. However, the allegations made in the complaint, on its face value, do

¹ AIR 1960 SC 866

² 1992 Supp (1) SCC 335

constitute the offences punishable under Sections 498-A and 506 IPC r/w. Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act. The specific allegation made by the defacto-complainant in her complaint is that, at the time of marriage, her parents paid a sum of Rs.2,50,000/- as dowry, besides presentation of 2 sovereigns of gold chain and 1 ½ souverigns of gold ring to A.1. Such payment of dowry and presentation of ornaments would fall within the definition of dowry under Section 2 of Dowry Prohibition Act and receiving the same constitute an offence punishable under Section 3 of the Dowry Prohibition Act. Prima facie, the other allegations of demanding of Rs.2,00,000/- as additional dowry by the accused after the marriage, and subjected her to cruelty by beating her and attempting to kill her by hanging with her dupatta, these incidents, if proved, on its face value, would constitute an offence punishable under Section 4 of the Dowry Prohibition Act and under Section 498-A and Section 506 of IPC, as she was subjected to cruelty, as defined under explanation to Section 498-A of IPC. Therefore, I find no ground to quash the proceedings, at this stage.

7. In any view of the matter, at this stage, this Court cannot go into the evidence meticulously to analyse the case before commencement of trial to find out whether the case would end in conviction or acquittal, in view of the principle laid down by the Apex Court in MRS. DHANALAKSHMI v. R.

PRASANNA KUMAR AND OTHERS³. Hence, the evidence, if any, placed before this Court cannot be looked into, at this stage.

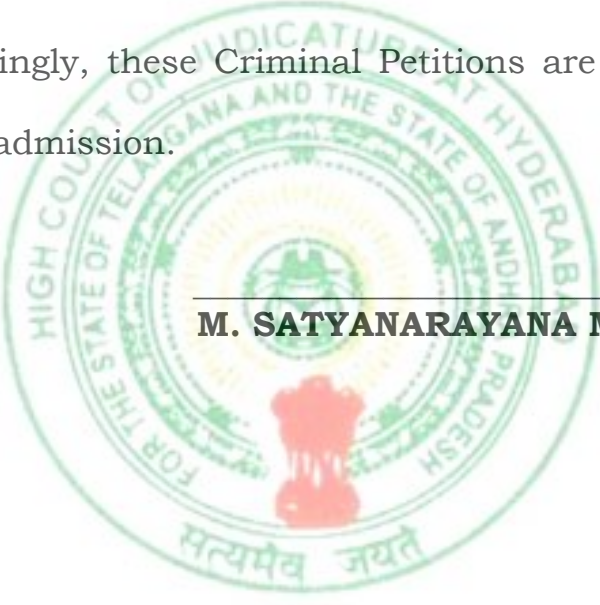
8. Further, to quash the proceedings, at the stage of crime, by exercising power under Section 482 Cr.P.C., the Court must exercise its jurisdiction sparingly and such jurisdiction under Section 482 Cr.P.C., should not be exercised to stifle a legitimate prosecution. The High Court, being the highest Court of the State, should normally refrain from acting prima-facie any offence where the entire case rests, moreso, when evidence has not been collected and produced before the Court and the issue involved is whether factual or legal or that magnitude and an error seen in their true perspective without sufficient material, as held by the Apex Court in STATE OF ORISSA AND ANOTHER v. SAROJ KUMAR SAHOO⁴. In the very same judgment, the Apex Court further held that even if the charge is framed, at that stage, the Court has to only prima-facie be satisfied about the existence of sufficient ground for proceeding against the accused and for that limited purpose, the Court can evaluate the material and the documents on record, but it cannot appreciate the evidence. Therefore, in view of limited scope of jurisdiction under Section 482 of Cr.P.C., I am unable to exercise inherent jurisdiction, when the complaint facts are

³ AIR 1990 SC 494

⁴ (2005) 13 SCC 540

incomplete and the investigation is at a feotus stage, by applying the principle laid down in STATE OF ORISSA (supra 4) to quash the proceedings. Hence, the present Criminal Petitions are liable to be dismissed, as the material allegations made in the complaint, on its face value, would constitute offences punishable under Sections 498-A and 506 of IPC r/w. Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, in exercise of inherent jurisdiction as per guideline No.1 in BHAJAN LAL's case (supra 2).

9. Accordingly, these Criminal Petitions are dismissed, at the stage of admission.



M. SATYANARAYANA MURTHY, J

28.11.2016.
Msr

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Msr