

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15839 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 Cr.No.552 of 2016 of Kukatpally Police Station, Cyberabad, registered against the petitioners for the offences punishable under Sections 498-A of Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 3 and 4 of Dowry Prohibition Act, 1961.

The main grievance of the petitioners before this court is that the allegations made against them in the complaint lodged by the second respondent with Station House Officer, Kukatpally Police Station, Cyberabad, on its face value would not constitute an offence on its entirety and thereby the proceedings against the petitioners are liable to be quashed.

During hearing, Sri Damodar Mundra, learned counsel for the petitioners, drawn the attention of this court to various allegations in the complaint dated 19.10.2016 and in the last 5 lines of the first page of the complaint, there is an allegation that the sister of Naresh (A.1) also harassing the second respondent and supported A.1 in his cruel deeds. Basing on these vague allegations about harassment, while supporting cruel deeds, the police registered a crime against the third petitioner for the offence punishable under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act.

There are certain allegations made against A.1, who allegedly demanded Rs.1,00,000/- as additional dowry and subjecting the second respondent to cruelty for her failure to meet the illegal demand. But the allegations made against the petitioners 3 and 4 are totally vague and not directly pointing the overt acts of the petitioners 3 and 4 for the offence punishable under section 498-A of I.P.C. subjecting the women to cruelty by the husband or his relatives for her failure to meet the illegal demand for payment of additional dowry. Mere making an allegation that the petitioners 3 and 4 supported cruel deeds of husband of second respondent would not constitute an offence punishable under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act, on its face value.

Learned counsel for the second respondent, while supporting the case of the second respondent, drawn the attention of this court to a specific allegation at page 2 of the complaint to contend that the allegations made in the complaint are sufficient to constitute an offence against the petitioners for the offence punishable under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act. The specific allegation, is extracted hereunder for better appreciation:

“....my sister-in-law would also came to my in-law’s house and she would support her parents and threatened me that if do not follow her parents word they will see my life”

The specific sentence drawn to the attention of this court also would not directly pointing out the involvement of petitioner No.3 subjecting the second respondent to cruelty for her failure

to meet the illegal demand for additional dowry. The allegations are too vague and on its face value would not constitute the offence *prima facie* against the petitioners 3 and 4. Therefore, I find that registration of crime against petitioners 3 and 4 is without any basis and investigate against them for the offence punishable under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act, is nothing but an abuse of process of law.

Petitioners 1 and 2 are the in-laws and there is a specific allegation against them that they subjected the second respondent to cruelty, demanding additional dowry of Rs.1,00,000/-, and therefore the allegations made against them on its face value in its entirety would constitute an offence and moreover the investigation is not yet commenced. Therefore, at this stage, this court cannot analyze the entire material, except for limited purpose, to decide whether *prima facie* case is made out against them or not.

As I find allegations against the petitioners 1 and 2 which would constitute an offence punishable under Section 498-A of I.P.C. and sections 3 and 4 of Dowry Prohibition Act, the proceedings against them cannot be quashed. Moreover, I find no allegations against petitioners 3 and 4 to proceed further against them for the offence punishable under section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act. Consequently the proceedings against petitioners 3 and 4 are

- 4 -

liable to be quashed by applying guideline No.1 laid down by the Apex Court in **STATE OF HARYANA v. BHAJAN LAL**¹.

In the result, the criminal petition is allowed in part quashing the proceedings against petitioners 3 and 4, while permitting the investigating agency to proceed against petitioners 1 and 2. However, the Station House Officer, Kukatpally Police Station, is directed to follow the procedure prescribed under Section 41-A of Cr.P.C. and the guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR**² before effecting the arrest of the petitioners 1 and 2.

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

M. SATYANARAYANA MURTHY, J

Date: 15.12.2016
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¹ 1992 SUPP (1) SC 335

² 2014(2) ALT (Cri.) 457 (SC)