

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1739 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., petitioners/A4 to A6 seek to quash the proceedings in C.C.No.243 of 2012 on the file of Judicial First Class Magistrate, Puttur, Chittoor District.

2) The *defacto* complainant filed a private complaint against A.1 to A.6 and the same was forwarded by the learned Judicial First Class Magistrate, Puttur, Chittoor District which was registered by the Police of Puttur P.S, Chittoor as a case in Crime No.80 of 2012 for the offence under Sec.498-A IPC and Sec.3 & 4 r/w Dowry Prohibition Act and after investigation, laid charge sheet against A.1 to A.6.

3) The allegations in the complaint are as follows:

a) A.1 and *defacto* complainant fell in love while they were studying degree at Tenali and when A.2 to A.6 disagreed for their marriage, they left their respective villages and got married in Srikalahasti Temple on 10.10.1999. Out of their wedlock the complainant gave birth to one son and daughter namely Ram Harshith and Roshini respectively and they all lived happily upto one year. Subsequently, at the instance of elders and well-wishers, A.2 to A.6 and parents of the complainant started coming to their house and they all led happy life.

b) The further case of the complainant is that she and A.1 led happy and comfortable life for about 9 years. He worked in a private organization for some period and subsequently he lost his job. She got job as Teacher and joined at Pedda Kannali of Thottambedu Mandal and A.1 was living at his native place. Both of them led happy marital life upto 2007 and thereafter A.1 on the instigation of A.2 to A.6 forced her to apply for long leave and accordingly she applied for leave for 2 years i.e, upto 2009. During that period, the attitude of A.1 became different and he was picking up quarrels with her without any reason and further, he failed to secure any job and thereby the family fell in financial crisis and therefore, she decided to rejoin in the job and accordingly in the year 2009 she joined and was posted at Thumbur village of Narayanavanam Mandal. Thereafter A.1 shifted his family to Puttur which was a nearby town to the place of her employment.

c) Further case of complainant is that A.1 used to demand her monies and he withdrew the amounts from her bank account by taking away her ATM Card without her consent and knowledge and beat her and threatened her to see her end. A.1 went to Puttur and Thumbur where she was working and harassed her to get more amounts as additional dowry to meet his illegal necessities and when she refused, A.1 beat her indiscriminately and uttered that he would see the end of her mother. When she met A.2 to A.6 to advice A.1 to led marital life, instead of advising A.1, they also directed her to

get dowry amounts and when the complainant expressed her inability to get amounts, they necked out her from the house at Chirala where A.2 and A.3 were residing.

Hence, the charge sheet.

4) Heard arguments of Sri Pullarao Yellanki, learned counsel for petitioners/A.4 to A.6; learned Public Prosecutor for the State (Andhra Pradesh) and Sri S.Subba Reddy, learned counsel for R2/*defacto* complainant.

5) Denying the allegations levelled in the complaint and charge sheet against petitioners/A.4 to A.6, learned counsel for petitioners submitted that the *defacto* complainant and A.1 belonged to different religions and they fell in love while studying in college and they married against the wish of their respective parents about 13 years back and started leading independent life and whereas petitioner/A.4 to A.6 are concerned, they are the brother and married sisters of A.1 and they have been living at different places with their respective families and they have no concern with the family affairs of the complainant and A.1 and in that view of the matter, it is preposterous to allege that petitioners/A.4 to A.6 instigated A.1 to demand dowry from the complainant particularly 13 years after the marriage and couple getting children and on their alleged ill-advises A.1 harassed her. Learned counsel vehemently argued that except, general sweeping and omnibus allegation that the petitioners/A.4 to A.6 instigated A.1 to demand additional dowry, no specific

overtacts of harassments with required particulars such as place, date and time of such occurrences were mentioned in the complaint so as to infer the *prima facie* involvement of the petitioners/A.4 to A.6 in the crime. He argued that it is a clear case of roping the petitioners just because they are the relations of A.1 though they have absolutely had no concern for the family affairs of A.1 and the complainant. As such, he argued, continuation of the proceedings against them by forcing them to face the ordeal of the trial would amount to abuse of process of the Court and hence the proceedings against them may be quashed. He relied upon the following decisions:

- 1) ***Preeti Gupta and another vs. State of Jharkhand and another***^[1]
- 2) ***Myla Sunitha Priyadarshini vs. SHO Nandyal III Town P.S and State of A.P., rep by its Public Prosecutor and another***^[2]

He thus prayed to allow the petition.

6) Per contra, while opposing the petition learned counsel for respondent No.2/*defacto* complainant argued that in the complaint and statements of the witnesses, it was clearly mentioned that A.2 to A.6 have poisoned the mind of A.1 and instigated him to demand dowry from the complainant and on their ill-advises A.1 started harassing her and in view of

sufficient *prima facie* material against the petitioners, they do not deserve quashment of the proceedings particularly after filing of charge sheet and thus prayed to dismiss the petition.

7) Learned public prosecutor also argued in similar lines.

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

“Whether there are merits in this petition to allow”

9) **POINT:** Deprecating the attitude of complainants roping in as many as relations of their husbands in Section 498-A cases, though in fact such relations are residing at far off places and in some cases in abroad and had no connections with the family affairs of the complainant and her husband, Hon’ble Apex Court in **Preeti Gupta’s** case (1 supra) observed thus:

“Para 35: The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.”

In **Myla Sunitha Priyadarshini’s** case (2 supra), this

Court following the above caution and holding that except omnibus allegations that the mother and sisters of A.1 supported him and goaded him to harass his wife no specific instances were vividly made to appeal to the conscience of this Court, quashed the proceedings against the petitioners in that case.

a) In the light of above precedential jurisprudence, it has now to be seen whether any specific overtacts with required details are made, showing the *prima facie* indulgence of the petitioners/A.4 to A.6 in the crime alleged against them.

b) In that context a perusal of the complaint shows that in Paras 6, 7 and 11, the complainant made a reference about the petitioners/A.4 to A.6 and also ofcourse about A.2 and A.3 with whom we are not concerned. Therefore, the allegations levelled against the petitioners in those Paras have to be scrutinized to know whether those allegations depict the *prima facie* involvement of the petitioners in the offences or whether they are only sweeping and omnibus allegations. In Para 6 of the complaint it is mentioned that the A.1 and complainant led happy and conjugal life for about 9 years and thereafter with the inducement of A.2 to A.6, the attitude of A.1 was totally changed. It may be noted that with such alleged change in the attitude, what atrocious acts A.1 has committed was mentioned in Para 7. In Para 7 it is mentioned that the complainant got the job as Teacher in Pedda Kannali of Thottambedu Mandal and as A.1 did not have any job, he

alone was living at his native place i.e Chirala. It is further mentioned that both of them led happy marital life upto 2007 and thereafter A.1 on the instigation of A.2 to A.6 forced the complainant to apply for long leave and accordingly the complainant applied for leave for 2 years i.e, upto 2009. During that period, it is alleged, A.1 with his changed attitude used to pick up quarrels with complainant without any reason and further, he failed to secure any job and thereby the family fell in financial crisis and therefore, the complainant decided to rejoin in the job and accordingly in the year 2009 she joined in the post in Thumbur village of Narayanavanam Mandal. Thereafter A.1 shifted his family to Puttur which was a nearby town to the place of her employment.

c) Then in Paras 8 to 10, the complainant described as to how A.1 used to demand her monies and how he has withdrawn the amounts in her bank account by taking away her ATM Card and his beating complainant and threatening her mother to see her end.

d) Then coming to Para 11 which has a reference about A.2 to A.6, it is mentioned that when the complainant reported about the attitude of A.1, instead of mending the ways of A.1, they directed the complainant to get amount towards dowry and when the complainant expressed her inability to get amounts, they necked her out from the house at Chirala where A.2 and A.3 were residing. The above are the allegations against the petitioners. In my considered view,

these allegations besides being sweeping and omnibus, smacks of details about the place and time of occurrence so as to infer the indulgence of the petitioners/A.4 to A.6. The allegations are also improbable for the reason that admittedly the petitioners who are the brother and married sisters of A.1 have been residing in different places with their respective families. Therefore, they have had no occasion to reside along with A.1 and complainant either at Chirala or at Puttur where most of the alleged harassments of A.1 took place. As already stated supra, the complaint is soaringly silent with regard to the place and time when A.4 to A.6 instigated A.1 to demand dowry from the complainant particularly when the marriage between A.1 and complainant was a love marriage and the alleged instigation was long after such marriage. For all these reasons, I am of the view that the petitioners were unnecessarily roped in the criminal case and continuation of the proceedings against them is nothing but abuse of process of the Court.

10) Accordingly, this Criminal Petition is allowed and proceedings in C.C.No.243 of 2012 on the file of Judicial First Class Magistrate, Puttur, Chittoor District against petitioners/A4 to A6 are quashed.

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

U.DURGA PRASAD RAO, J

Dt: 03.06.2016

SCS

[\[1\]](#) (2010) 7 SCC 67

[\[2\]](#) 2015(3) ALT (CrI.) 478 (AP)