

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.16345 of 2016

ORDER

This petition under Section 482 Cr.P.C. is filed to quash the proceedings in C.C.No.84 of 2016 on the file of Principal Judicial First Class Magistrate, Siddipet, registered for the offences punishable under Section 498-A IPC and under Sections 3 and 4 of Dowry Prohibition Act (for short 'the Act'), against petitioners/A2 to A6.

2. During hearing, learned counsel for petitioners raised various grounds. The first ground is that after marriage, the de-facto complainant and A1, who is not petitioner herein, stayed in India for three months and thereafter, A1 left to Saudi and immediately, the de-facto complainant shifted her residence to other place while petitioners 1 and 2/A2 and A3 were living in one house and petitioners 3 to 6/A4 to A6 were living separately. Thus, the de-facto complainant never lived with these petitioners and therefore, the question of subjecting her to harassment to meet additional demand of dowry does not arise and that she filed the present complaint with false allegations. The second ground urged by learned counsel for petitioners is that A1 got issued a legal notice dated 20.04.2016, calling upon the de-facto complainant to join him to lead marital life i.e., for restitution of conjugal life, for which a suitable reply was issued by de-facto complainant on 06.05.2016, but she did not disclose about the said notice and reply in the present complaint. The third ground raised by learned counsel for petitioners is that petitioners 2 and 3 are old aged persons and residing at Hyderabad

and they are unable to undertake journey to attend the trial Court. He contended that the allegations made in the charge sheet on its face value would not constitute the offences punishable under Section 498-A IPC and under Sections 3 and 4 of the Act and prays to quash the proceedings against petitioners.

3. Petitioner No.1 is mother-in-law of de-facto complainant, petitioners 2 and 3 are wife and husband, petitioner Nos.4 and 5 are brother and maternal uncle of A1 respectively. As seen from the allegations in the charge sheet, the marriage of de-facto complainant with A1 was performed on 22.05.2014 and at the time of marriage, her parents paid cash of Rs.3 lakhs, presented 10 tulas of gold besides household articles worth Rs.11 lakhs, as dowry, which comes within the definition of 'dowry' as defined under Section 2 of the Act and receiving such amount, gold ornaments and household articles would fall within the scope of Section 3 of the Act. Therefore, these allegations on its face value would constitute the offence punishable under Section 3 of the Act. The other allegations are that demand for payment of additional dowry of Rs.5 lakhs and subjecting the de-facto complainant to cruelty on account of her failure to meet the illegal demand and to perform another marriage to A1 with another woman etc. Such demand for payment of additional dowry of Rs.5 lakhs would attract the offence under Section 4 of the Act, so also causing physical and mental harassment would fall within the ambit of explanation (ii) of Section 498-A IPC. Therefore, the allegations made in the charge sheet on its face value would constitute the offences under Section 498-A IPC and under Sections 3 and 4 of the Act.

4. The main endeavour of learned counsel for petitioners is that there is no truth in the allegations made in the charge sheet. But this Court cannot decide whether those allegations are true or not while exercising jurisdiction under Section 482 Cr.P.C. and in view of the law declared by the Apex Court in **Mrs. Dhanalakshmi v. R. Prasanna Kumar**¹; **Ganesh Narayan Hegde V. S. Bangarappa**² and **M/s Zandu Pharmaceutical Works Ltd., V. Md. Sharaful Haque**³, wherein it was held as follows:

“ The inherent power is to be exercised ex debito justitiae, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal”

Therefore, the jurisdiction of this Court under Section 482 Cr.P.C. is limited and if the allegations made in the complaint or charge sheet on its face value would constitute the offence *prima facie* against petitioners, this Court cannot exercise its jurisdiction under Section 482 Cr.P.C., as held by the Apex Court in **State of Haryana V. Bhajan Lal**⁴.

5. As discussed above, the allegations made in the charge sheet would constitute the offences punishable under Section 498-A IPC and under Sections 3 and 4 of the Act and therefore, this Court cannot exercise its inherent jurisdiction to quash the proceedings in view of the disputed questions of fact regarding payment of dowry etc., which cannot be gone into by this Court at this stage.

¹AIR 1990 SC 494

² (1995) 4 SCC 41

³ AIR 2005 SC 9

⁴ 1992 Supp.(1) SCC 335

6. Finally, learned counsel for petitioners submitted that the petitioners are facing much difficulty to attend the Court at Siddipet as the first petitioner being old woman and petitioners 2 and 3 are living in different house and other petitioners are living at Hyderabad. No doubt, the petitioners are living around Siddipet District. They are entitled to file appropriate application before the trial Court to dispense with their presence under Section 205 Cr.P.C. or under Rule 37 of Criminal Rules of Practice. But, difficulty to attend Court is not a ground to quash the proceedings.

7. In view of the foregoing discussion, I find no ground to quash the proceedings at this stage and the criminal petition is liable to be dismissed.

8. In the result, the Criminal Petition is dismissed, at the stage of admission, leaving it open to the petitioners to file appropriate application under Section 205 Cr.P.C., or under Rule 37 of Criminal Rules of Practice after due notice to the Public Prosecutor, and if such application is filed, the trial Court is directed to decide the same in accordance with law on the same day. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.

M. SATYANARAYANA MURTHY, J

28th November, 2016

sj