

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15318 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash F.I.R No.320 of 2016 dated 23.09.2016 on the file of the Palavancha Police Station, Khammam District for the offences punishable under Sections 498-A I.P.C, 3 & 4 of Dowry Prohibition Act.

The case of the prosecution is that the defacto complainant/2nd respondent is married to the 1st petitioner. While the 2nd & 3rd petitioners are the parents, the 4th petitioner is the brother of the 1st petitioner. The marriage between the 1st petitioner and the defacto complainant/2nd respondent is not in dispute. The case of the prosecution from the beginning is that on 20.05.2010 the marriage between the defacto complainant/2nd respondent and the 1st petitioner was solemnized with the agreement of their relatives. At the time of marriage, the parents of the defacto complainant/2nd respondent gave Rs.8.00 lakhs of cash, 7 tulas gold, ½ kg silver and other household articles as dowry to celebrate the marriage and they lived happily for quite sometime. Thereafter, from the second month of the marriage, the petitioners 1 to 3 started demanding additional Rs.5-00 lakhs as dowry by subjecting the defacto complainant/2nd respondent to cruelty. Though she expressed her inability to meet the illegal demands, her parents paid the said amount after sale of agricultural land. Despite paying the said amount, the petitioners

continued to harass the defacto complainant and further demanded Rs.20-00 lakhs as additional dowry, thereby subjecting her to cruelty. On the strength of the complaint, the police registered F.I.R.No.320/2016 on 23.09.2016.

Now, the contention of the petitioner is that, there is no truth in the allegations made in the complaint and that the allegations even if they are taken on its face value, they would not constitute an offence.

Section 2 of Dowry Prohibition Act, 1961 (for short 'Act') defined the term 'Dowry' which reads as follows:



“dowry’ means any property or valuable security given or agreed to be given either directly or indirectly:

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.”

Section 3 of the Act prescribed the penalty for giving or taking dowry and it reads as follows:

“(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

* * * Explanation I omitted by Sec.2 w.e.f 2nd October, 1985

(2) Nothing in sub-section (1) shall apply to or, in relation to,-

presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in list maintained in accordance with rule made under this Act; presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act; Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.”

Therefore, taking dowry as contended by the defacto complainant i.e. Rs.8.00 lakhs of cash, 7 tulas gold, ½ kg silver and other household articles as dowry would constitute an offence under Section 3 of the Act and similarly demanding dowry would constitute an offence under Section 2 of the Act. Therefore, I find specific allegation in the complaint to constitute an offence, even if the allegations are taken on its face value. Consequently, the proceedings in F.I.R.No.320/2016 for the offences punishable under Sections 2 & 3 of the Act cannot be quashed at this stage.

Coming to the other offence i.e. offence punishable under Section 498-A of I.P.C, the defacto complainant made serious allegations against the petitioners, more particularly, subjecting her to cruelty, thereby demanding additional dowry. Though an amount of Rs.5-00 lakhs was once given by selling the agricultural land, the petitioners continued to harass the defacto complainant to meet the additional illegal demand of Rs.20-00 lakhs. Therefore, I find no ground to quash the proceedings at this stage. However, the apprehension of the petitioners is that, the police may arrest the petitioners 2 to 4 at any time in connection with the above crime and therefore, I deem it appropriate to issue a direction to the police to follow the procedure laid down in Section 41-A of Cr.P.C and

statutory guidelines formulated by the Supreme Court in ***Arnesh Kumar v. State of Bihar and another***¹.

With the above direction, the criminal petition is disposed of.

Consequently, miscellaneous petitions pending, if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:27.10.2016
SP



¹ (2014) 8 SCC 273