

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.13589 of 2015

ORDER :

This criminal petition is filed by the petitioner/A.1 under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to quash the proceedings in C.C.No.285 of 2013 pending on the file of Judicial First Class Magistrate, Ramannapet, Nalgonda District, for the offence punishable under Section 498-A, 309 and 324 IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 (for short, 'the D.P.Act') on the main ground that the de facto complainant ie., 2nd respondent herein with an intention to kill the petitioner opened gas stove and as usual the petitioner went into the kitchen for lighting cigarette and sustained burn injuries on 06.01.2013 and immediately brother of the petitioner gave a complaint to police and the petitioner was shifted to hospital and later the complaint dated 11.01.2013 was lodged with the police, but as a counter blast, present complaint is lodged against the petitioner, though the petitioner never subjected her to cruelty and the medico legal case record dated 07.01.2013 would indicate that the petitioner sustained 35% burn injuries. Therefore, the proceedings in C.C.No.285 of 2013 are liable to be quashed since it is an abuse of process of Court and present complaint is filed as a counter blast for the alleged serious burn injuries on the body of the petitioner.

2. The 2nd respondent filed counter denying the material allegations while contending that the husband of the de facto

complainant i.e., petitioner herein used to return the house in drunken state and used to beat the de facto complainant without any fault of her and the brother of the petitioner lodged the complaint only after six days from the date of alleged incident and it is as an after thought. It is also contended by the de facto complainant that the petitioner in drunken state beat the de facto complainant and when her mother-in-law came to rescue her, the petitioner locked the de facto complainant and her mother-in-law in the bedroom, bolted the door from outside and made an attempt to commit suicide in a drunken state not because of the allegations made against the de facto complainant and prayed for dismissal of the petition.

3. During hearing, learned counsel for the petitioner would contend that the present complaint is filed to overcome difficulty in the incident of attempt to kill and as a counter blast to the complaint given by the brother of the petitioner and there is no truth in the allegation made in the charge sheet and prayed to quash the proceedings.

4. Whereas learned counsel for the 2nd respondent submitted that this Court cannot exercise the inherent power under Section 482 Cr.P.C. when the allegation made in the charge sheet on its face value constitute the offences punishable under Sections 498-A, 324 and 309 IPC and Sections 3 and 4 of the D.P. Act and prayed for dismissal of the criminal petition.

5. Adverted to the allegations made in the charge sheet, the marriage of the petitioner with the de facto complainant was performed on 05.11.2009 and at the time of marriage, the parents of the de facto complainant allegedly presented cash of Rs.5,00,000/- besides household articles and they lived happily for some time and blessed with a child during wedlock and thereafter the petitioner started harassing the de facto complainant both physically and mentally to bring additional amount of Rs.2,00,000/- and beat her for her failure to meet the illegal demand. The investigation also disclosed the ill-treatment, subjecting the de facto complainant to harassment both physically and mentally for her failure to meet the illegal demand, beating her indiscriminately etc., On the face value of the allegations in the charge sheet would constitute the offences punishable under Sections 498-A and 324 IPC etc.,

6. As per Section 2 of the Dowry Prohibition Act, dowry means payment of any amount including household articles. Similarly, demand of dowry is an offence punishable under Section 3 of the D.P. Act and Section 4 deals with punishment of demand of dowry. Therefore, receiving Rs.5,00,000/- at the time of marriage by the petitioner and demanding additional dowry of Rs.2,00,000/- would constitute the offence, if proved on the face value of the allegation made in the complaint punishable under Section 3 and 4 of the D.P.Act.

7. Subjecting to cruelty for her failure to meet the illegal demand would fall within the clause (b) of explanation to Section 498-A IPC. Thus, the allegation made in the charge sheet would prima facie constitute the offence, subject to proof during trial.

8. The jurisdiction of this Court under Section 482 Cr.P.C. is limited though it is inherent and such jurisdiction can be exercised only in exceptional cases as laid down by the Apex Court in **State of Haryana v. Bhajan Lal**¹, explaining the limits of jurisdiction under Section 482 Cr.P.C. and laid down the guidelines either to exercise the power or not to exercise the power under Section 482 Cr.P.C., they are as follows:

(a) where the allegations made in the First Information Report or the complaint, 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;

(c) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no

¹ 1992 Supp (1) SCC 335

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

9. Guidelines No.1 is relevant for deciding the present case and according to it, the Court can exercise inherent jurisdiction under Section 482 of Cr.P.C. where the allegations made in the First Information Report or the complaint, 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. Therefore, by applying the above guideline, it is difficult to quash the proceedings at this stage.

10. The only contention before this Court is that the complaint is filed as a counter blast for the alleged offences committed by the de facto complainant and her mother-in-law and the petitioner sustained burn injuries when litting cigarette, but that cannot be accepted at this stage and it is a disputed question of fact that can be decide only during trial, therefore, I find no ground to quash the proceedings in C.C.No.285 of 2013 pending on the file of Judicial First Class Magistrate, Ramannapet, Nalgonda District.

11. Accordingly, the criminal petition is dismissed.
12. Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

10th November 2016

mar

