

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2470 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings initiated against the petitioner/A-5 in C.C.No.244 of 2015 pending on the file of I Additional Junior Civil Judge, Narsaraopet, Guntur District, arising out of Crime No.288 of 2012 of Women Police Station, Central Crime Station, Hyderabad, registered for the offences punishable under Section 498 A and 406 IPC and Sections 4 and 6 of Dowry Prohibition Act.

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

The main grievance of the petitioner is that her name was falsely implicated in the case and she is no way related to the family of the 2nd respondent/*de facto* complainant. It is the case of the petitioner that the ingredients to constitute an offence punishable under Section 498 A IPC and Sections 4 and 6 of Dowry Prohibition Act do not attract to petitioner/A-5, as she is not the member of the family of the 2nd respondent/*de facto* complainant and the ingredients of the offences are attributed only to the members of the family, but not the persons other than the family members. In the charge sheet, the name of the petitioner was mentioned as close associate of the father of A-1. Mere allegation that the petitioner was present at the time of demanding dowry does not amount to the offence of Section 498-A IPC, as she is not way related to the 2nd respondent/*de facto* complainant, and hence, continuation of the proceedings against the petitioner is nothing but an abuse of process and the same may be quashed.

A perusal of the material on record makes it clear that the petitioner was arrayed as A-5 being close associate of A-3, the father-in-law of the 2nd respondent/de facto complainant. Even if the entire allegations of the charge sheet are taken as true and correct at their face value and in its entirety, except bald allegations that the petitioner/A-5 was present at the time of demand for dowry, no case is made out about the active involvement of the petitioner/A-5 in the alleged demand and harassment. In the charge sheet, it is nowhere stated that the petitioner/A-5 is the member of the family and it only says that she is close associate of A-3, the father-in-law of the 2nd respondent/de facto complainant.

However, it may relevant to refer the provision of Section 498 A IPC, which makes it clear that whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be liable for punishment. The provision of the section clearly says that the ingredients of the offence are attributable only to the members of the family and not to any other person. In the instant case, the charge sheet clearly discloses that the petitioner/A-5 was the close associate of the father-in-law of the 2nd respondent/de facto complainant, and it does not say how the petitioner/A-5 is related to the members of the family and in what way she is involved in the alleged offences, when she was arrayed as close associate of A-3, the father-in-law of the 2nd respondent. In the absence of any relationship of the petitioner/A-5 with the family members of the 2nd respondent/de facto complainant, the ingredients of Section 498A IPC do not attract to the petitioner, as she is neither a member of the family nor the

relative of the husband of the 2nd respondent/ *de facto* complainant. In such scenario, since no active participation of the petitioner/A-5 either as a member of the family or a relative of the husband of the 2nd respondent/*de facto* complainant, is involved in the alleged harassment and demand, continuation of proceedings against the petitioner/A-5 is nothing but an abuse of process of law, and thus, the proceedings initiated against the petitioner is concerned are liable to be quashed.

Accordingly, the criminal petition is allowed and the proceedings initiated against the petitioner/A-5 in C.C.No.244 of 2015 pending on the file of I Additional Junior Civil Judge, Narsaraopet, Guntur District are hereby quashed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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RAJA ELANGO, J

Date: 26-02-2016

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