

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.16027 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.214 of 2016 pending on the file of Judicial First Class Magistrate, Zaheerabad, for the offences punishable under Sections 498-A, 323, 504 and 506 of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act.

1st petitioner who is husband of the defacto complainant is A.1.

2nd respondent filed a private complaint before the Judicial First Class Magistrate at Zaheerabad making allegations that her marriage was performed with first accused on 1-11-2013 as per Hindu Religious Custom. At the time of marriage, her parents presented dowry articles i.e., three tulas of gold and Rs.50,000/- cash towards Jode-ki-raqam and other articles worth Rs.1,00,000/- to A.1. After marriage, they joined both and lived for a period of four years. During their wedlock, they were blessed with daughter who is named as Juveria on 15-8-2014 in Government Hospital, Zaheerabad. Later, A.1 along with A.2 to A.9 started harassing her to bring additional dowry of Rs.1,00,000/- from her parents for purchase of jeep and on intimation of the same to the parents of the complainant, they requested A.1 not to harass the complainant since they are not in a position to pay additional amount of Rs.1,00,000/- as they are poor. Thereupon, the petitioners started subjecting

defacto complainant to cruelty for her failure to meet illegal demand of additional dowry.

Judicial Magistrate of First Class, Zaheerabad while exercising powers under Section 156 (3) Cr.P.C. referred the complaint to police concerned and in turn, the police registered the same as a case in crime No.50 of 2016 for the offences punishable under Sections 498-A, 323, 504 and 506 of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act and issued F.I.R.

During investigation, police examined as many as 12 witnesses and recorded their statements under Section 161 (3) of Cr.P.C. and filed charge sheet making specific allegations against A.1 to A.7.

Now the contention of the petitioners in the present petition is that payment of Rs.50,000/- towards Jode-ki-raqam would not fall within the definition of Section 2 (f) of the Dowry Prohibition Act. Jode-ki-raqam means payment of amount towards clothes but the allegations specifically mentioned in the complaint that the parents of the petitioner presented three tulas of gold and household articles worth Rs.1,00,000/- at the time of marriage to A.1. But such payment of Rs.1,00,000/- would fall within the definition of Dowry under Section 2 of Dowry Prohibition Act, but Jode-ki-raqam was not included in the definition of dowry prohibition Act. Receiving three tulas of gold and household articles of Rs.1,00,000/- is an offence punishable under Section 3 of Dowry Prohibition Act.

Other allegation made in the private complaint and charge sheet is that A.1 to A.7 demanded the defacto complainant for

payment of additional dowry of Rs.1,00,000/- to purchase a jeep and when her parents expressed their inability to meet the illegal demand, they subjected the defacto complainant to cruelty for her failure to meet the illegal demand, therefore, such act would fall within the ambit of explanation (1) of Section 498-A of I.P.C. and on the face of the allegation made in the charge sheet would constitute the offence punishable under Section 498-A of I.P.C. Similarly demanding additional dowry of Rs.1,00,000/- would fall within Section 4 of the Dowry Prohibition Act. Other offence allegedly committed by petitioners is punishable under Section 323 I.P.C. The contention of the petitioners is that about 25 persons came in a jeep and caused simple hurt voluntarily on the body of the defacto complainant is not supported by any medical evidence. The word simple hurt is defined under Section 319 of I.P.C. and according to it, whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Therefore, causing pain is sufficient for which medical certificate is not necessary.

But here, the defacto complainant allegedly sustained hurt in the hands of those persons i.e., 25 persons who came in a jeep and caused injuries, the persons who caused hurt is a question of fact to be decided during trial but not at this stage and this court cannot decide at this stage whether the petitioners caused hurt voluntarily on the body of defacto complainant. The other offences allegedly

committed by the petitioners is punishable under Sections 504 and 506 of I.P.C.

Section 506 of I.P.C. deals with criminal intimidation as defined under Section 523.

Section 503 of I.P.C. reads as follows:

“Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.”

Thus threat to injure reputation is punishable under Section 506 of I.P.C.

Thus accused caused alarm by threatening as per the allegations made in the charge sheet and the allegations would not constitute an offence punishable under Section 504 I.P.C. There is no specific allegation to attract the offence under Section 504 I.P.C., therefore, the proceedings against the petitioners for the offence under Section 504 is quashed while permitting the Judicial Magistrate of First Class, Zaheerabad to proceed against the petitioners in C.C.No.214 of 2016 for the offences punishable under Sections 498-A, 323 and 506 of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act.

During arguments, learned counsel for the petitioners requested to dispense with the appearance of the petitioner No.2

before Judicial First Class Magistrate, Zaheerabad as he is an old man aged 75 years but the such order is to be passed by the Judicial First Class Magistrate, Zaheerabad by exercising powers under Section 205 of Cr.P.C. Therefore, the petitioner No.2 is directed to file appropriate application under Section 205 Cr.P.C. before the Judicial Magistrate of First Class, Zaheerabad, after due notice to the respondent and on filing such application, Judicial Magistrate of First Class, Zaheerabad is directed to decide the same on the same day itself.

. Accordingly, this Criminal Petition is allowed in part quashing the proceedings against the petitioners for the offence punishable under Section 504 of I.P.C. in C.C.No.214 of 2016 pending on the file of Judicial First Class Magistrate, Zajeerabad and this Criminal Petition in respect of other offences punishable under Sections 498-A, 323 and 506 of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 16-11-2016.

Dvs.

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Dated 16-11-2016

Dvs