

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.15789 OF 2013

ORDER:

The petitioners 1 to 4 herein are A.2 to A.5 in C.C. No.214 of 2013 on the file of XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, and the second respondent herein is the de facto complainant. A.1 is the husband of the second respondent/ de facto complainant, (who is not the quash petitioner herein) and it is shown he is in USA.

02. The crime registered from the report of the de facto complainant in Cr.No.3 of 2011 of CID PS, WPC, Hyderabad, against A.1 to A.5 for the offences under Sections 498-A and 406 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 3 and 4 of Dowry Prohibition Act, 1961. The police, after investigation, filed the final report under Section 173 Criminal Procedure Code, 1973 (for short, 'CrPC') and the learned Magistrate supra of the Mahila Court, Hyderabad, taken cognizance for the offences supra against the accused persons in above C.C. No.214 of 2013, the same is impugned by A.2 to A.5/ quash petitioners in seeking to quash the Crime and the final report filed by the police under Section 173 CrPC which was taken cognizance by the learned Magistrate.

03. The factual back ground shows that the marriage of the de facto complainant with A.1 was performed on 08.02.2001 and she joined her husband at Chicago, USA and stayed from 15.03.2001 to 26.01.2003 and came back to Vizag and for 6 months she stayed at her in-laws house at Vizag and again went to USA and joined her husband and stayed for 3 months from 09.09.2003 to 15.12.2003 at Atlanta and later in January, 2004 came to Hyderabad, thereafter shifted to Bangalore and stayed from January 2004 to August 2004 and again in August 2006 herself and her husband went to USA and stayed up to June 2009 at Dallas and Los Angles and in June 2009 she came to India and stayed at Hyderabad with her parents in the

present address of Begumpet, Shyamlal Buildings. In their wedlock, they were blessed with a male child, Akhil, student of third standard, Hyderabad Public School, apart from the next issues, they are twins, daughter Amrutha and son Ajay, aged about 2 years 2 months by the date of report i.e. 2011, that all the three children born in USA in their wedlock and she is working in a software company Neuview at Begumpet.

04. She further averred that at the time of marriage, her parents were informed about A.1 and his parents that he is working as Software Engineer, USA at Chicago in Picobyte Consulting Inc. Chicago, USA. Her parents believed the representations without verification including of his passport and not obtained any social security number from such people, however came to know after marriage those are all false representations for marrying the de facto complainant and extracting the monies in showing high profile and he was actually working as driver in a local motel at Chicago. To her shock and surprise, A.2 demanded Rs.10,00,000/- as dowry and 30 tulas gold besides several gifts to sisters of A.1 and her father stated that he cannot give dowry but would give 1000 SFT site, Rs.2,00,000/- cash, 20 tulas gold to the de facto complainant and celebrated the marriage in grand way, in the presence of elders, B. Demudu, K. Nageswara Rao, Ramanamma, R. Appa Rao and B. V. Ramanamma's brother S.Govind, and her father spent about Rs.6,00,000/- for the marriage, Rs.50,000/- spent for cloths of A.1, Rs.60,000/- for his sister and family clothes and Rs.30,000/- for other relatives' clothes, and given Rs.50,000/- cash and Rs.50,000/- worth gifts to sisters of A.1 besides Rs.1,00,000/- for furniture after marriage given to A.1 and also spent Rs.50,000/- for their trip to go to Tirupati, along with other family members.

05. The de facto complainant further averred that after marriage, when she joined with A.1, came to know that he is not settled in USA and was terminated from the Company and managing through

employment at days inn as receptionist-cum-driver and even during their stay, he never showed interest in earning a better livelihood and he got all vices and used to speak in filthy language and used to watch prone movies, used to drink alcohol through out the day and night and even ill treated her physically and mentally, during the stay at Chicago from March 2001 to January, 2003, for her asking to get a better job and he was not allowing her to speak with any friends in USA even to secure a job nor he was doing job and they were unable to look after the needs of their male child; first issue born on 26.11.2002 and she was leading a solitary life as he was attending night duties and even other time he resorted to physical abuse and ill treating and he was threatening her parents that he is having control over her and by his mother and sisters and he never allowed even to dial her parents and not even provided the proper home to stay and they were staying in the hotel where he worked as receptionist-cum-driver, not even allowing to speak with any of his friends in USA and his mother and sisters, who are quash petitioners A.2 to A.5, used to express their angry towards her saying she was escaping from doing service to them and enjoying in USA and A1 used to throw things at her and hurting her.

06. She further avers that she was doing job in Chicago and A.1 taking away her earnings for his expenses and exploited credit cards for his own use, that not even communicated by her to her parents. She excepted that during her delivery, her mother to be present with her to assist and asked A.1 to make arrangements for her mother to come to USA, however he sent a set of papers to her parents and did not enclose any VISA, thereby her mother's VISA was rejected and she was admitted in Elmburst Memorial Hospital, Chicago, where delivered male issue on 26.11.2002 and he did not even care her to see the child during her stay in the Hospital, but Dr.Bravo of Elmburst Hospital has kind enough to provide the required medical and hospital support, he recommended to the Government of USA to meet hospital expenses, pregnancy pre and post delivery care of baby and herself,

she was discharged on 28.11.2002 and A.1 did not take the baby into his arms and used to yell impatiently whenever the child cries and got irritated to come to home, and started pestering her to leave the son at his parents in India alleging to stay without disturbance and she opposed the idea of separating her from the child, and A.1 started absconding for days together and for her questioning to leave the child in India, and they visited India and stayed in in-laws house at Vizag from 01.02.2003 to 30.08.2003.

07. To her surprise, her parents did not even come to see the grand child and she came to know that they were restricted not to see her and grand child and she was puzzled knowing, when questioned her husband, he slapped her for contacting her parents without his permission. She further averred that her mother-in-law demanded Rs.12,00,000/- and when she questioned A.1, himself and his mother raised their voice and came to slap, behaved rudely including in front of her parents and accused persons raised a big quarrel when her parents came to the house and A.2 to A.5 threatened and not allowing her to stay with A.1. On the next day of the occurrence, one B. Demudu, marriage elder, tried to mediate in the house of eldest sister of A.1 i.e. Bhavani/ A.3 at Visakhapatnam including in the presence of A.1's uncle, Govind besides the de facto complainant's cousin Nageswara Rao and every one suggested to perform name ceremony of first child to neutralize all negative situations and it was performed on 03.02.2003 at Hotel Meghalaya. Her father gifted Rs.10,000/- to A.1, for which accused persons were not satisfied and abused, though it is hard earned money of her father and her mother-in-law hurt her badly and even her husband witnessed when she was helpless and fainted out of pain caused from the hit on head. Her husband did not react to prevent her console and that was happened the day before ceremony at Hotel Meghalaya, from which the arrangements cancelled, even advance could not be get back.

08. It is the further averment that during their stay at India, in that

period, her mother-in-law messed up the relationship between the de facto complainant and A.1, further which made A.1 to show indifferent attitude totally including stopped speaking by avoiding the de facto complainant and his sisters and other family members even harassed her by separate her including from the child by not even allowing the child to have mother's breast feed and all of sudden after two months he left for USA alone without even informing her about his arrangements and on questioning, he answered vaguely that he was going back to USA and if she wants to go along with him, she should leave her son in India under his mother's care to her shock and unable to leave the child, she lived in the in-laws house for five months facing all ill treatment of A.2 to A.5, as the sisters were coming to their mother and after 6 months he made a call to the de facto complainant and asked her to come to USA, her father arranged the travelling expenses to her and to her son Akhil in September 2003. They reached Chicago and at the same time shifted to Atlanta and there he told that they were going back to India in another 3 months and she questioned that for the short span of time, why he made her to come, but he did not respond and in December 2003 he brought them to India and taken to the in-laws, there for 2 months stayed and he went to Bangalore and joined in IBM in January, 2004 and during her two months stay at in-laws house, the accused ill treated her. On 28.01.2004 the de facto complainant and her mother-in-law went to Bangalore to join with A.1, at his request and after 15 days when his mother went back, A.1 asked to part with the child by the de facto complainant and she resisted the decision and he called up his sister Rukmini to Bangalore and they harassed her and met her with torture to agree and on 24.05.2004 her brother came to Bangalore and invite them to their father's 60th birthday celebration and A.1 asked the de facto complainant to go to Vizag to his mother's place saying his mother and sister visiting Bangalore and she was not allowed much less any of them not even attended her father's 60th birthday.

09. From the above, police registered a case and filed final report, the same is now sought for quashing with the contentions that the de facto complainant filed false complainant against the petitioners and they have no nexus with the alleged offence, alleging that since the date of marriage till lodging the complaint, she was with A.1 at abroad and Hyderabad, A.1 provided all the basic needs and helped her getting employment, for which she is now able to earn now and after knowing the income of the de facto complainant, her parents abetting her for filing false cases against the petitioners. The petitioners further alleged that they did not harass the de facto complainant, she sent A.1 from the house to satisfy her ego before her family members. Hence seeking to quash the proceedings in C.C. No.214 of 2013 on the file of XIII Additional Chief Metropolitan Magistrate (Mahila Court) Hyderabad.

10. Now the point for consideration is, whether there are any grounds to quash the proceedings in C.C. No.214 of 2013 against any of the petitioners/ A.2 to A.5?

11. In fact the perusal of the averments, the main allegations are against A.1 and also against A.2, mother of A.1. So far as married sisters concerned, though they are shown as all residents of Visakhapatnam at different places away to the A.2's house, they are with their respective families at husbands places and on perusal of the record shows, besides A.1 and his mother, A.2, the married sisters are also roped with the allegations with some sort of vengeance and the allegations insofar as three married sisters of A.1 concerned, practically it will not be allowed to sub serve the ends of justice from the engineering of the same but for nothing to interfere so far as the proceedings of the calendar case against A.1 and A.2.

12. Accordingly and in the result, the petition is allowed in part while quashing the proceedings of C.C. No.214 of 2013 insofar as the petitioners 2 to 4/ A.3 to A.5 concerned and the petition is dismissed insofar as the first petitioner/ A.2 concerned. The first petitioner/ A.2 is

given liberty to move the trial court under Section 205 Cr.P.C. to represent through Special Vakalath holder to hear and permit by the learned Magistrate to dispense with personal presence with necessary conditions including of personal presence as and when required.

13. Consequently, miscellaneous petitions if any pending in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

08.02.2016

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