

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION NO.1658 of 2016

ORDER :

The petitioner, who is A1 in Crime No.19 of 2015 of Nampally Police Station, Hyderabad District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime registered for the offences punishable under Sections 498-A, 307 read with Section 120 b of IPC read with Section 4 and 6 of Dowry Prohibition Act. A private complaint came to be lodged against the petitioner and others which was referred to police under Section 156(3) of Cr.P.C.

The allegations in the said complaint are as under:

A1 is the husband, A2 is father-in-law, A3 is mother-in-law, A4 is the sister-in-law of the informant and A5 is the relative of A1. The marriage of the informant with A1 was performed on 19.03.2014 at Gadelly Vari Kalyana Mandapam, Machilipatnam. It is alleged that at the time of the marriage, on the demand made by A1 to A3, the parents of the informant gave cash of Rs.10 lakhs, 30 tulas of gold ornaments, 2 Kgs. of silver and an independent house at steel plant, Visakhapatnam worth about Rs.30 lakhs. In addition to that, 4 tulas of gold ornaments to A1 and Rs.75,000/- of cash towards aadapaduchu katnam were also given. Apart from that, an amount of Rs.10 lakhs was also spent to perform the marriage. It is stated that the informant joined with A1 at his work place at NTPC Quarters, Noida. As the said place was new to the informant, and at the request of the A1 to A3, the family members of the informant went to Noida. After reaching Noida, A1 changed his attitude and on the demand of the petitioner, the parents of the informant purchased the household articles worth Rs.1 lakh. Immediately thereafter, A1

demanded additional dowry of Rs.6 lakhs and also demanded for transfer of the house in his favour, which was presented at the time of marriage by the parents of the informant as Streedhana. It is further alleged that during the stay of the parents of the informant, the petitioner did not provide even basic amenities like shelter and food, moreover he used to pick up quarrel with the parents of the informant saying that he is not happy with the dowry given by them and demanded further dowry. It is further alleged that A5, who is the wife of the close friend of A1, was moving closely with A1 and she used to enter into the bedroom of the informant and sleep on the bed. When the informant objected about the same, A1 and A5 used to insult her. It is stated that the informant tolerated all the humiliation and harassment with a fond hope that one day A1 will mend his ways and can lead a happy marital life, but he did not change his attitude and he never treat the informant as his wife. Basing on these allegations, a complaint came to be registered.

Learned counsel for the petitioner mainly submits that even accepting the allegations in the report to be true, no offence is made out against the petitioner. He also submits the Court at Nampally has no jurisdiction to try the case as the allegations of harassment took place only at Noida. He further submits that compromise talks are going on and if the petitioner is arrested at this stage, he is likely to lose his job.

On the other hand, learned Public Prosecutor opposed the application contending that the allegations made in the report are grave in nature and his application has been dismissed earlier not only by this Court, but also by the Supreme Court and as such, he is not entitled for the relief he sought for.

Before dealing with the orders passed by this Court, it would be

appropriate to refer to the nature of allegations made against the petitioner, who is A1 in the complaint. A reading of the complaint would show that after marriage, the informant joined him at Noida. Since the said place was new to her, her family members accompanied her. After reaching Noida, A1 changed his attitude and on a demand made by the petitioner, the parents of the informant purchased house hold articles worth Rs.1 lakh. Thereafter, on 30.11.2014, at 10.30 a.m., A1 and A2 pick up a quarrel with the informant demanding additional dowry of Rs.6 lakhs and also to transfer the house, which was presented at the time of marriage to the informant as Streedhana, in favour of A1. The averments in the report also disclose that during the stay of parents of the informant at Noida, A1 used to harass the informant by abusing her and her parents by passing unwanted comments apart from demanding additional dowry. The averments further disclose that A1 was moving closely with A5, who is wife of his close friend and that she was entering into bed room of the informant and sleep on the bed. When the informant objected for the same, A1 and A5 used to insult her. Since the allegations made are quite grave and serious making out a *prima facie* case, this Court by an order dated 13.03.2015 in CrI.P.No.2512 of 2015, rejected the request of the petitioner, while granting anticipatory bail to A2 to A5. Subsequently, the petitioner herein carried the matter to the Apex Court by a way of Special Leave Appeal (CrI.) No.4381 of 2015. On 22.05.2015, the Apex Court ordered that the petitioner shall not be arrested in view of the representation made that they are exploring possibility of an amicable settlement. Subsequently, on 27.07.2015, the said application was dismissed by the Apex Court. Thereafter, the petitioner herein preferred CrI.P.No.7533 of 2015, before this Court, seeking anticipatory bail. Initially, this Court directed the police not to arrest the petitioner and also directed both the parties to be present before

the mediation center on or before 22.09.2015. Since the compromise talks failed and having regard to the directions given earlier, learned Single Judge of this Court, dismissed the said application. Questioning the same, the petitioner moved CrI.P.No.11904 of 2015 under Section 438 of Cr.P.C., which was also dismissed by this Court on 24.11.2015. It appears that thereafter, the petitioner approached the Apex Court vide SLP (CrI.) No.10565 of 2015 which was also disposed of on 16.12.2015. The order passed by the Apex Court is not produced before this Court, except the case status information. The material on record further discloses that in the year 2015 itself, the petitioner along with A2 to A5 filed CrI.P.No.1834 of 2015 seeking quashing of investigation. By an order dated 02.04.2015, this Court ordered that investigation shall go on, but however, directed the police not to file charge sheet until further orders. It appears that the said application is still pending consideration. Being unsuccessful in all his attempts, he again filed the present application under Section 438 of Cr.P.C. seeking release in the event of his arrest, in connection with the above crime. Since the request of the petitioner was rejected thrice by this Court and twice by the Apex Court, this application warrants no consideration at all and the same is accordingly dismissed.

At this stage, learned counsel for the petitioner strenuously submits that he may be directed to be released on bail after surrender on certain terms and conditions. I am afraid the same cannot be accepted since it virtually amounts to granting relief, which was negated earlier.

Accordingly, the Criminal Petition is dismissed. However, it is always open to the petitioner to surrender himself before the appropriate Court and move an application for regular bail, after giving prior notice to the learned Public Prosecutor, in which event,

the trial Court shall consider the same on merits, in accordance with law.

JUSTICE C. PRAVEEN KUMAR

25.02.2016
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