

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16159 of 2016

ORDER :

This criminal petition is filed by the petitioners/A.1 to A.5 under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to quash the proceedings in C.C.No.328 of 2016 pending on the file of the XIV Metropolitan Magistrate, L.B.Nagar, Ranga Reddy District, for the offences punishable under Sections 498-A and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. The main ground urged before this Court by the petitioners is that petitioner No.1 lodged complaints on 29.04.2016, 14.05.2016 and 02.06.2016 making certain allegations against the de facto complainant, but the police did not register any crime for some time. However, a crime was registered against the de facto complainant for the offences punishable under Sections 323, 448, 380 and 506 read with 34 IPC on 23.07.2016. Therefore, the present complaint is a counter blast for the alleged complaint of the 1st petitioner/A.1. The allegations made in the charge sheet are false on its face value, as no evidence was collected by the investigating agency during investigation and that when the allegations made in the charge sheet prima facie on its face value would not constitute any offence, this Court can quash the proceedings and requested to quash the proceedings.

3. During hearing, learned counsel for the petitioners would draw the attention of this Court to several documents including complaint referred supra to show that the de facto complainant was guilty of offences referred supra and the present complaint is only abuse of process of Court and prayed to quash the proceedings.

4. Initially, respondent No.2 i.e., de facto complainant lodged a complaint with the police for the offences punishable under Sections 498-A and 506 IPC and Sections 3 and 4 of the D.P. Act and issued F.I.R. against the petitioners and thereafter took up investigation. During investigation, recorded the statement of several witnesses and collected evidence to establish the guilt of the petitioners for the above offences and filed charge sheet, having come to the conclusion that the case has to be proceeded against the petitioners for the said offences.

5. At this stage, the duty of the Court is to exercise the power under Section 482 Cr.P.C. and the Court has to look into the allegations made in the charge sheet on its entirety and the material annexed to the criminal petition and nothing more than that. In para 2 of the charge sheet a specific allegation is made that *“at the time of engagement, her husband and his family members demanded dowry of an amount of Rs.15 lakhs/-, 80 tulas of gold, 1 kilogram of silver articles, furniture worth of Rs.45,000/- and all their demands were complied by her parents and gave Rs.6 lakhs cash and 5 tulas of gold was given to her husband and 45 tolas of gold to her and silver*

ornaments, other house hold articles as per their demands”.

Thereafter, the marriage was solemnized. Thus, the allegations on its face value attract the offence punishable under Section 3 of the Dowry Prohibition Act, since such payment of cash and presentation of gold and silver articles before the marriage would fall within the meaning of dowry under Dowry Prohibition Act.

6. In the same para, it is disclosed that husband of the de facto complainant ie., the 1st petitioner used to make her life more miserable and behave like a sadist and used to suspect on every trivial aspect and used to attribute illicit relation with persons whoever spoke to her and did not have any care, love and affection towards her. Her husband and his family members have started harassing her for additional dowry stating that the dowry that she had brought was very less. He has not been given sufficient dowry by her parents and that even at that time, if her husband desired, there were number of families ready to give their daughter to him with huge amount of dowry. In addition to them, elder sister-in-law also used to come down to the house very often and used to make humiliating comments against her and used to instigate her husband and her parents stating that they would have easily get a beautiful girl than her with much amount of dowry. These allegations on its face value constitute an offence punishable under Section 4 of the D.P.Act and so also 498-A IPC since the allegations would attract clause (2) of explanation to 498-A IPC.

7. Normally, this Court can exercise its jurisdiction under Section 482 Cr.P.C. in exceptional circumstances sparingly, to give effect to the order under the Code of criminal procedure to prevent abuse of process of any Court and or to secure ends of justice.

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 seven 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. Guideline No.a 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. But, here the allegations made in the charge sheet on its face value would constitute the offences punishable under Sections 498-A of IPC and Sections 3 and 4 of the D.P.Act.

10. The contention of the petitioners is that the respondent No.2 lodged complaint and charge sheet is filed by the police as a counter blast to the complaint lodged by the 1st petitioner earlier. But, that cannot be decided at this stage and that is not sufficient to quash the proceedings. Therefore, considering the facts of the present case, I find sufficient allegations on its face value constituting the offences punishable under Sections 498-A IPC and Sections 3 and 4 of the

D.P.Act in the charge sheet. Thereby, the criminal petition is devoid of merits and is liable to be dismissed.

11. The learned counsel for the petitioners insisted to receive 500 Whatsapp messages and SMSs between the petitioner No.1 and de facto complainant. But, while exercising inherent power under Section 482 Cr.P.C. to do real and substantial justice, for administration of which alone Courts exist wherever any attempt is made to abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal as already held in **Mrs. Dhanalakshmi v. R.Prasanna Kumar and ors²**, **Ganesh Narayan Hegde v. S.Bangarappa and ors³** and **M/s.Zandu Pharmaceutical Works Ltd. And ors. v. Md.Sharaful Haque and ors.⁴**

12. Thus, this Court cannot analyze the entire material on record to decide the application under Section 482 Cr.P.C. to come to a prima facie conclusion that the case pending before the trial Court would end in acquittal or conviction. The Court cannot sit over an appeal while exercising under Section 482 Cr.P.C. as held in **Saroj Kumar Sahoo v. State of Orissa and another⁵**. Therefore, this Court need not make a roving enquiry regarding the truth or otherwise in the allegation to decide the application filed under Section 482 Cr.P.C and

² AIR 1990 SC 494

³ (1995) 4 SCC 41

⁴ AIR 2005 SC 9

⁵ (2005) 13 SCC 540

it is the duty of the trial Court to find out whether the charge sheet disclosed an allegation on its face value would constitute an offence or not basing on the material produced and not more than that. Therefore, those Whatsapp messages in a printed book consisting of more than 500 pages need not be looked into at this stage.

13. In the result, the criminal petition is dismissed at the admission stage.

14. Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

22nd November 2016

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