

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.6432 of 2013

ORDER :

The petitioners are the A.2 to A.5 among the 5 accused of Cr.No.83 of 2013 of the Women Police Station, Begumpet, pending on the file of the XV Additional Chief Metropolitan Magistrate, Hyderabad, which is outcome of the referred report of the defacto complainant-2nd respondent no other than the wife of A.1, dated 02.05.2013, preferred the present Criminal Petition under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') seeking to quash the proceedings in the said crime.

2. Heard the learned counsel for the petitioners so also the 1st respondent-state and the 2nd respondent/defacto complainant and perused the material on record.

3. The contentions in the grounds of petition are that the petitioners/accused never harassed the 2nd respondent/defacto-complainant for getting additional dowry as she alleged in her complaint moreover they treated her like their own daughter, that since the marriage, the defacto-complainant is pressurizing the A.1 to put up a separate family and when A.1 refused her nefarious plan keeping the condition of his old aged mother(A.2), she filed this false complaint against the petitioners herein, that all the allegations are omnibus allegations and there are no specific overtacts attributed against the petitioners and there is no prima facie case is made out except stating that all the accused persons harassed her for getting additional dowry, that it is a settled law unless there must be cogent evidence against the accused persons they should not be roped in the case of harassment, moreover, the A.4 and A.5 who are no way concerned or connected, and they living separately far from A.1 and unnecessarily roped in the present crime, that when there is no prima facie case is made out against the accused persons, the Court can exercise

inherent jurisdiction under Section 482 of Cr.P.C. to quash the complaint and the same is also held in the expressions of the Apex Court in *State of Hayryana Vs. Bajanlal*^[1] *Pepsi Foods Limited Vs. The Spl.Judicial Magistrate*^[2] and *SW Palnikar Vs. State of Bihar*^[3]. It is also further held in for no any specific allegations in the so called cruelty or dowry harassment to investigate, as also from the expressions in ***Kans Raj Vs. State of Panjab***^[4], ***Shaik Kusrouddin Vs. State of Andhra Pradesh***^[5], ***Susheel Kumar Sharma Vs. Union of India***^[6] and ***Patnaikuni Madhuri @Lakshmikumari Vs. Baravelli Sandhya***^[7] where the Apex Court quashed the proceedings under Section 498-A of IPC for no specific allegations thereby sought for quashing the proceedings against the petitioners herein in the crime supra.

4. The undisputed facts are that the marriage between the couple was performed on 09.06.2011. As per the complainant averments prior to the marriage there was engagement ceremony on 13.05.2011 and as per the demand of the accused persons, her father gave Rs.3,00,000/- cash, one and half tula of gold bracelet, Rs.1,00,000/- towards adapaduchu katnam to A.3 Smt. Saritha and A.4 Smt. Rajitha and Rs.70,000/- for purchase of two wheeler by A.1 and Rs.1,00,000/- for household articles and Rs.60,000/- for clothes besides that at the time of marriage, 15tulas of gold and household articles as demanded by the accused persons and it is pretended that A.1 B.Mahender is a MBA graduate and working as Marketing Manager in Adani Wil Mart, that after marriage she joined her husband at the in-laws house, at Sanjay Gandhinagar Nagar, Jamaosmania, Secunderabad and they lived happily for 20 days and she went to her parents observing custom of Ashadamasam and later she was brought back by her sister-in-law on 04.08.2011 to the in-laws place and from then onwards she found change in the attitude of A.1-her husband that her husband

started abusing her in filthy language for no reason, coming late to home and beating and abusing her parents for not bringing sufficient dowry as demanded and when questioned his late coming home, he replied as he got busy works in the nights and in fact he is not a MBA graduate and not a Marketing Manager but a salesman but she did not question the same intending that he will change his attitude. On 16.08.2011 when he came late and for her questioning, he beat her mercilessly and saying how dare she is to ask when not brought sufficient dowry and he would look after her well on bringing sufficient dowry only, that since prior to her marriage she was working as computer operator in Veterinary Super Speciality Hospital, Narayanaguda, for a salary of Rs.10,000/- per month that was even taken by the A.1 and A.2 her mother-in-law by giving paltry amount of Rs.500/- for her expenses every month and again on 24.08.2011 when her husband came late night to home and for her questioning, the A.1 to A.5 who visited their house and stayed in the night, A.3 and A.4 though married and staying away, all started beating her and in February, 2012 A.2(her mother-in-law and brother of A.1 by name Naveen, a divorcee, left the house and started living separately along with her sister-in-laws in a nearby house and thereafter her husband increased harassment by beating her in black and blue with the support of her mother-in-law. In the month of March, 2012 she got pregnancy and even not kept good health but he did not least bother, then on the advice of doctor, she went to her parents house and did not inform the harassment of her husband and in-laws and her husband used to come there rarely and stayed for five minutes only in which time he used to abuse her. On 12.08.2012 when she was a 7th month pregnant, due to emergency she gave birth to a male child which died after one week. Then her husband(A.1) her mother-in-law(A.2), her sisters-in-law(A.3 and A.4) and A.5(husband of A.4) came there, abused her and her father and beat her saying that they did not take

proper medical care. After that even she requested to take back they refused by demanding additional dowry and on 10.10.2012 she along her maternal uncle S.Santhosh went to her husband's house and requested her in-laws(the accused persons) to allow her into the house but they bluntly refused demanding additional dowry of Rs.3,00,000/- and abused them in filthy language and further in February, 2013 her parents through elders tried to convince her in-laws but in vain. In the end of March, 2013 she came to know through neighbours of her husband house and also one of her father's colleagues by name M.Pavan Yadav(mediator) that prior to her marriage, her husband was having love affair with a girl by name Spandana and to avoid that only, her in-laws got his marriage with her(defacto-complainant) but her husband still continuing living with Spandana by taking a rented house at Ramnagar, Hyderabad, but with a fond hope that her husband will change his attitude, she bore all the harassment with great patience. Hence to take action against the accused persons.

5. It is submission of the learned counsel for the 2nd respondent is that A.1 was arrested on 06.05.2013 and remanded to judicial custody and later availed the concession of appeal. The petitioners A.2 to A.5 obtained interim stay of investigation of the above crime by order of this Court dated 04.07.2013 (another Bench of this Court) which has been extended ultimately until further orders by order dated 06.11.2013.

6. Undisputedly from the very report, it shows that sisters-in-law (A.3 and A.4) of defacto-complainant are married and staying away from them in a nearby house. A perusal of the FIR and the cause title of the quash petition shows of the address of A.4 and A.5, the wife and husband as residents of Moula Ali, Hyderabad, whereas, husband(A.1), mother-in-law (A.2) and sister-in-law(A.3) of defacto-complainant are residents of Boudhanagar, Jame Osmania,

Hyderabad. So far as the attribution with regard to A.3 to A.5, the same are unsustainable. The only specific allegation so far as the A.3 to A.5 is on 24.08.2011 when her husband in the late night (after midnight before 4.00 A.M.) to home and when she questioned, her sisters-in-law A.3 and A.4 and husband of A.4(A.5), who visited their home and by that were there, though living away in the nearby house, abused her and beaten. Further, A.3 to A.5 along with her husband(A.1) and mother-in-law(A.2), at one occasion when she was in hospital and gave birth to a male child who died after one week, came to the hospital and abused and beat her and her father. These grounds cannot be given credence to rope A.3 to A.5 in this crime, practically there is nothing so far against them but for against A.1 and A.2.

7. Coming to the propositions placed reliance by the quash petitioners, there is no dispute but for to say each case bears of its own facts and the Apex Court in the latest expression by scanning the earlier propositions including these covered supra on the scope of Section 498-A of I.P.C. held in **Taramani Parakh Vs. State of Madhya Pradesh** ^[8] that where there are specific allegations, the Court cannot quash the FIR even in matrimonial cases but for where there are omnibus allegations or allegations on its face unbelievable to rely, as the scope of Section 482 of Cr.P.C. intended to do real and substantial justice for the administration of which alone the Courts exist under the maxim *Ex debito justitiae*, thereby the Court has to appreciate each case on its own facts.

8. Having regard to the above, the Criminal Petition is allowed in part. So far as the A.3 to A.5 concerned, the proceedings in Cr.No.83 of 2013 of the Women Police Station, Begumpet, pending on the file of the XV Additional Chief Metropolitan Magistrate, Hyderabad, are quashed but so far as A.2(mother-in-law of the defacto-complainant) is concerned, the petition is dismissed. The stay of investigation granted earlier dated 04.07.2013 is vacated. The investigating officer

concerned is directed to proceed with the investigation and complete as early as possible so far as the A.2 (mother-in-law) is concerned and to file final report preferably within three months. It is needless to say pending investigation, the A.2 (1st petitioner herein) by name Smt. Rukmini, mother-in-law of defacto-complainant and mother of A.1 not to be arrested but for she has to appear as and when called for by the Police for any purpose of interrogation as part of investigation. The bail bonds of the petitioners/A.3 to A.5 shall stand cancelled. Consequently, miscellaneous petitions, if any pending, in this Criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:01.04.2016.

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- [\[1\]](#) 1992 Supp.(1) SCC 335
 - [\[2\]](#) 1998(5) SCC 749
 - [\[3\]](#) 2002(1) SCC 241
 - [\[4\]](#) AIR 2000 SC 2324
 - [\[5\]](#) 2004(2) ALD CrI.195
 - [\[6\]](#) 2005(2) ALD CrI.633
 - [\[7\]](#) 2007(2) ALD CrI.802
 - [\[8\]](#) 2015 (2) ALT CrI.336 SC