

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.6385 of 2015

ORDER:

The petitioners are A.2, A.5 to A.9 in Crime No.66 of 2015 of Women Police Station, Warangal Urban, outcome of the report of the 2nd respondent/*de facto* complainant, who is none other than father-in-law of A.1, registered for the offences punishable under Sections 498-A and 406 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act.

2. The 2nd respondent/*de facto* complainant filed a private complaint on 02.04.2015 before the I Additional Judicial Magistrate of First Class, Warangal against the nine accused including his son-in-law A.1. The private complaint is filed for the offences supra, which reads that through the elder daughter of the *de facto* complainant, he came to know about A.1-Vongala Ajay, studying Residency (post graduation in Medicine) in the University of Mississippi Medical Centre, Jackson, U.S.A., who is an unmarried person and contacted over phone proposing his youngest daughter Tula Harika Reddy (L.W.1), who was preparing for exams known as STEPS to get admission in Residency in U.S.A. A.1 informed that his mother A.2 be contacted with regard to the marriage proposal and accordingly, the *de facto* complainant contacted the mother of A.1 i.e, A.2 over phone with the proposal and A.2 saw L.W.1 at Venkateshwara Swamy temple situated at Himayat Nagar and liked the proposal.

3. It further reads the happening at USA subsequently, the *de facto* complainant's elder daughter Smt Tula Chaitanya of Virginia and her husband (L.W.4) invited A.1 to their house at Virginia, U.S.A., in December, 2012 for marriage talks and A.1 and A.3 went to the house of Tula Chaitanya in the first week of December, 2012 and exchanged pleasantries.

4. It further reads that later A.1 came to India in the last week of

December, 2012, and as A.2 invited the defacto-complainant and L.Ws.1 and L.W.2 viz; daughter and wife of defacto-complainant to come to Venkateshwara Swamy temple, Himayat Nagar to see L.W.3, accordingly, they met at the temple, where A.1 agreed to marry L.W.1 Tula Harika. On 26.12.2012 the engagement ceremony of A.1 with L.W.1 was performed. The *de facto-complainant* and L.W.2 invited L.Ws.5 to 12 to their house and on that A.1, A.2, A.5 to A.8 demanded an amount of Rs.50,00,000/-, gold ornaments and silver articles worth Rs.50,00,000/- and further Rs.5,00,000/- to A.1 towards dowry. The *de facto* complainant informed them that they own agriculture lands measuring Ac.7-20 guntas and Ac.3-00 guntas in Rampur and Somidi Villages and a house plot at Hanamkonda and showing half of the property in favour of L.W.1. The *de facto* complainant stated that they won't pay any dowry to A.1. For that proposal, A.1, A.2 and A.5 to A.8 did not agree and they left the house. Without no option, later the *de facto* complainant agreed to pay the said amount as demanded by the accused and engagement ceremony was performed and *de facto* complainant paid an amount of Rs.10,00,000/- and presented gold articles such as diamond ring, bracelet and chain to A.1, apart from presenting new clothes. Thereafter, A.1 left U.S.A. On 06.01.2013, A.2, A.6, A.7 and A.9 visited the house of the *de facto* complainant and prepared 'Lagna Patrika' and date of marriage was fixed on 15.02.2013 to be performed at R.R.Garden, K.U.C.Road, Hanamkonda. A.2, A.5 to 7 subsequent to engagement ceremony frequently directed L.W.1 to bring the car, which was purchased by L.W.2 while she was studying M.B.B.S in the year 2007 to the house of A.2 to take them to various places at Hyderabad for shopping. During that time, A.2 and A.5 to A.7 demanded L.W.1 to bring additional dowry of Rs.50,00,000/-, gold ornaments and silver articles as agreed to be paid to A.2 to construct house in the plot located opposite to Star Hospital, Banjara Hills, Hyderabad.

5. A.3 and A.4 came to India in February, 2013 and informed

L.W.1 that the dowry as agreed to be paid is very meager and demanded L.W.1 to bring additional dowry of Rs.50,00,000/- and pay the same to A.2 to enable her to construct house in the plot situated at Hyderabad and to get half share in the immovable properties settled in her name in favour of A.1. A.1 came to India from U.S.A in the 3rd week of January, 2013, thereupon, L.W.1 informed that if A.2 to A.5 again demands her to bring additional dowry of Rs.50,00,000/-, and the proposed marriage will be cancelled. Thereafter, A.1 came to Hanamkonda and informed L.Ws.1 and 2 to ignore the demands of A.2 to A.9 for additional dowry and on 15.01.2013 the marriage of L.W.1 was performed with A.1 and even after the marriage, L.W.1 faced harassment both physically and mentally day in and day out.

3. A.2 and A.5 to A.7 continues to harass L.W.1 both physically and mentally for additional dowry till she left for U.S.A. L.W.1 left for U.S.A on 29.03.2013. A.1 went to Airport to receive L.W.1 to the house. Immediately, after entering into the house, A.1 abused L.W.1 in filthy language and beat her black and blue alleging that she did not get Rs.50,00,000/- paid to A.2. In spite of the same, L.W.1 kept silent with a fond hope that he will change his attitude in future. A.1 continues to harass her day in and out without any provocation of whatsoever. L.W.1 noticed some nude pictures of women pasted on the walls in the bedroom and she requested to remove such nude pictures, but he declined to do so since he likes nude pictures. She also came across many obscene porn pictures of A.1 lip locking with many girls on objectionable positions at clubs in his laptop. When L.W.1 enquired A.1 with regard to those obscene pictures and sex chat video kept in laptop, A.1 admitted that he had sex with many prostitutes and boasted about his sexual escapades. A.1 used to peep through the window hours together at bikini clad girls, who were at the swimming pool, located in front of his apartment. L.W.1 informed the same to A.2, but she bluntly refused to hear and she supported A.1 and said that it is a common thing in U.S.A. A.1 took L.W.1 to watch

EVIL DEAD, a horror movie with force. After 15 minutes, L.W.1 was scared to watch and she got up to go outside the theatre. A.1 screamed at L.W.1 for wasting ticket money and made her to stand outside movie hall alone till he came out of the theatre. A.1 is informed before marriage as it teetotaler and non-smoker and he had many vices and no man could ever have such vices.

4. A.1 opened joint account and safety deposit locker in the bank in Jackson Mississippi in his name and in the name of L.W.1 and A.1 took some of the gold ornaments presented to L.W.1 at the time of marriage and kept in the locker, however, he allowed L.W.1 to wear sacred thread(pasuputadu). He kept both locks with him. Some of the ornaments presented to L.W.1 at the time of marriage are in the custody of A.2. Subsequently, L.W.1 came to know that A.1 closed the joint account and safety deposit lockers. A.1 used to inform L.W.1 that A.3 married A.4 against the wish of A.2 and it is a love marriage and he got married her just because A.2 insisted him to marry since her parents paid Rs.50,00,000/- and presented gold ornaments. A.1 to A.9 constantly pressurized L.Ws.1 and 2 for additional dowry. A.2 used to explicit language over the phone many time to make life of L.W.1 a hell and she threatened her that he would give divorce to her saying many girls waiting for him. When L.W.1 once went for walk, A.1 was so furious since she went out of the house for walking without taking permission from him. Thereupon, A.1 locked L.W.1 in the house and she has not seen sunlight for about four days. A.1 used to take L.W.1 to a restaurant and eat in front of her and he never offered any food to her. A.1 many a time made to sleep on carpet without providing blanket in cold weather. When L.W.1 went to library to read books to appear for exams, A.1 refused to pick up her and made her to wait in the balcony in chilly cold all the night. Whenever L.W.1 attacked with asthma, A.1 used to hide her emergency inhaler to the last bit. A.1 many a time forced L.W.1 to eat beef though she never ate it.

5. When L.W.1 was preparing food, accidentally burnt her hand in

the month of April, 2013 A.1 not get treated her. A.1 used gave some tablets to L.W.1 stating that they are oral contraceptives or multivitamins. Having believed A.1, L.W.1 consumed tablets and she became drowsy and depressed, as such she was shifted to hospital on 20.06.2013. A.1 threatened and did not allow L.W.1 to talk with L.W.2 over phone while undergoing treatment in the hospital. A.1 also threatened L.W.1 not to disclose to Doctors or to anybody about the tablets given by him, which she consumed. L.W.3 came to the hospital and took L.W.1 to Virginia on 22.06.2013 and ever since L.W.1 has been staying with LW.3. A.1 started spreading rumours against L.W.1 that she was not interested to get marry him and she had another guy in her life and she left A.1 only to be with the guy, whom she intended to marry. After discharge from the hospital, A.1 declined to take L.W.1 to his society and called A.1 and A.2 many a times and sent messages through her E-mail to him. A.1 made derogatory remarks that L.W.1 had suicidal tendencies and made multiple suicide attempts, previously. A.1 and A.2 abused L.W.1 in filthy language whenever they received phone calls from her. A.1 used to threatened L.W.1 that he would cancel dependent VISA and will give divorce to her as her parents did not give additional dowry as demanded by them. A.2 came to U.S.A twice and she along with A.1 contacted L.W.1 over phone asking her to sign on some papers and then only they would send visa documents to her and they constantly harassed her.

6. The books, medical certificates of L.W.1 are in the custody of A.1. L.W.1 requested A.1 to send her books and her EAD work permit so that she could study and work to support herself rather than burdening her family. But he declined to do so. As such, L.Ws.1 and 3 flew to Jackson, U.S.A, but, A.1 did not allow L.W.1 to enter into the house. L.W.3 collected books and few of clothes and other belongings of L.W.1. On 13.11.2014 L.W.1 flew to Jackson on 13.11.2014 to discuss with A.1 to take her to his society and lead normal marital life, but as usual he kicked L.W.1 out of the home in the night. L.W.1 had

no money to book return flight ticket. A.1 threatened L.W.1 that her parents have not given money to A.2 as demanded by her, as such, he will cancel her dependent VISA and he will give divorce to her. A.1 locked the apartment and went away leaving L.W.1 in front of the apartment in cold winter.

7. A.1 many a time subjected L.W.1 to physical and mental harassment having picked up quarrels with her on flimsy matters keeping in view of non-payment of additional dowry of Rs.50,00,000/- demanded by accused, more particularly A.1 and A.2, enabling A.2 to construct house in the plot situated at Banjara Hills, Hyderabad. A.1 many a time informed L.W.1 that she is not good enough from him and she deserved to be ill-treated. L.W.1 brought the harassment, with which she was subjected to in the hands of accused, more particular A.1 and A.2 to the notice of the L.Ws.3 and 4. That apart, she sent E-mail messages narrating all the incidents of harassment meted out by her to L.Ws.2 to 4. The elders by name Boddireddy Prabhakar Reddy and Puli Sarotham Reddy (L.Ws.9 and 10) went to the house of A.2 in the month of November, 2014, at the best of L.W.2 and requested her to direct A.1 to come to Hyderabad and they will see that L.W.1 also comes to Hyderabad to talk with them and settle the matter amicably. A.2 promised the elders to afford ten days time to her, so that she will direct A.1 to come to Hyderabad to settle the matter amicably. The said elders having waited for about fortnight many a time called A.2 over phone, but she did not attend the calls made by them. Hence, he prays to take necessary action against the accused person either to refer the complaint. Against the accused person either to refer the complaint to Warangal Women Police Station(Urban) for investigation or to take cognizance. With said private complaint dated 02.04.2015, there are 23 documents shown as enclosed as per the list and cited 12 witnesses either of Virginia, USA or of Hanumakonda or Warangal etc.,

8. Based on the office note of even date 04.04.2015 in Sr.No.685

of 2015, dt. 02.04.2015, the learned Magistrate by order dated 06.04.2015 forwarded to the police for investigation u/sec.156(3) of Cr.P.C. which reads that “complainant present. Heard. As the case of cognizable in nature and this Court felt that investigation is necessary, complaint is forwarded to Station House Officer of Mill Colony Police station House Officer of Mill colony Police Station u/sec. 156(3) of Cr.P.C. for registration of crime and report by 01.05.2015”.

9. Even the order of the Magistrate was dated 01.05.2015, after directions of the Apex Court in **Priyanka Srivatsava Vs. State of U.P.** ^[1] and there must be supporting affidavit to the complaint averments by complainant and also giving of police report before filing complaint in Court and must submit proof of such report given u/sec.154(1) and if not received report or not chosen to record oral report as per Sec.154(3) to submit written report by post to the Superintendent police, the compliance not made and not even asked to comply and such forwarding is thereby not sustainable. The Inspector, W.P.S. Warangal Urban Police Station pursuant to the same (and not by SHO of Mill colony P.S. to whom so directed by Magistrate so to register) registered the crime No.66 of 2015 for the offences punishable u/sec.498-A and 406 of IPC and Sections 3 and 4 of D.P.Act. The A.1, A.2, 5, 6, 7, 8 and 9 filed W.P.No.14367 of 2015 to quash the FIR and the Court by giving option to invoke Section 482 Cr.P.C. disposed off the same. Pursuant to which the present quash petition is filed by the A.2,5 to 9 (six out of the 9 accused, others A.1,3 and A.4).

10. The contentions in the quash petition are that, besides the allegations of private complaint covered by the FIR are untrue, the acts alleged occurred in USA from which the FIR is liable to be quashed for no part of cause of action taken place within the Women P.S. Warangal to investigate the crime and further no offences made out u/sec.498-A and 406 of I.P.C. and Sec.3 and 4 of the D.P.Act. A.1 filed (having signed on 04.02.2015 at Jacksund M.S.30.12.2016) Divorce

Case in O.P.No.198 of 2015 against the L.W.1 which is pending before the Family Court, CCC, Hyderabad. It further shows he filed Case No.10.G.2015-32 S/2 against her in Chancery Court, Mississippi. In the present crime A.2 was served with Section 41-A Cr.P.C. notice to attend for investigation.

11. Heard both sides at length and perused the material on record. As observed in para No.9 supra, there is no compliance of the requirements of the directions of the Apex Court in **Priyanka Srivastava** supra for the learned Magistrate to take the complaint on record either to refer to police for investigation or to take cognizance viz., there is no supporting affidavit to the complaint averments as required and there is no supporting material to say any police report given and any crime, if not registered any police report sent by registered post to the Superintendent of Police which are the mandatory requirements with filing of proof before filing any private complaint as per **Priyanka Srivastava**. Suffice to say the learned Magistrate did not apply his mind to the material even in passing the order for referring the complaint to the police for investigation under Section 156(3) Cr.P.C.

12. In fact, even coming to the merits, a perusal of the complaint of the father-in-law of A-1 as defacto-complainant the main allegations so far as the harassment or ill-treatment of L.W-1 wife of A-1 is against A-1 and additionally against A-2, so also from the seeing of the girl at Venkateswara Swamy Temple at Himayath Nagar and later seeing the girl at Virginia at the house of the elder daughter of the defacto-complainant-cum-sister-in-law of A-1 and undisputedly A-3 sister of A-1 married to A-4, a love marriage, against the will of mother of A-1 and they are at U.S.A and there is no basis to say A-3 and A-4 also in the crime as to they came to India in February, 2013 and stated alleged dowry given to A-1 by L.W-1 for the marriage with L.W-1 proposed is meager and to bring additional dowry of Rs.50,00,000/-. Leave about

said allegation is per se unbelievable without any specific date and place but as vague as anything to rope them, had it been; from the complaint averments shows from the beginning very reluctant to give any dowry or to meet any demand for dowry and if at all convinced to give at the time of engagement, for no role of others as can be seen in that regard, from voluntary and so far as subsequent demands had it been true of further Rs.50,00,000/- demanded of originally Rs.10,00,000/- stated to be paid or paid and even saying to cancel the marriage, could it be performed by their coming forward. That is nothing but a baseless allegation with vengeance as it appears to rope A-3 and A-4. Even coming to A-5 to A-9 the stray allegations against A-5 to A-7 or A-8 including by a sentence of roping A-9 generally as if they were demanding for additional dowry and when informed to A-1, A-1 asked L.W-1 and defacto-complainant to ignore their demands, leave about no specific instances of date and time and place, that is suffice to say the proceedings of the crime against A-3 to A-9 are liable to be quashed but for to survive if at all on merits against A-1 and A-2. Even so far as A-1 and A-2 for A-1, A-3 and A-4 not before this Court among the petitioners for nothing more to observe, even against A-2 there are allegations from the non-compliance of mandatory procedure of **Priyanka Srivastava** supra in filing the complaint even to order by Magistrate for police investigation same won't survive and liable to be quashed without prejudice to any complaint in future against A-1 and A-2 if at all there is material after proper compliance, after giving of police report and if refused to receive by sending through registered post and if no action taken then to file a private complaint by filing proof and affidavit in respect thereof and not otherwise.

13. Accordingly and in the result, while quashing the crime No.66 of 2015 of Women Police Station, Warangal Urban, so far as A-5 to A-9 in toto for not sustainable with any merits, so far as A-2 among the petitioners concerned, it is quashed for non-compliance of the mandatory requirements in the guidelines of **Priyanka Srivastava**

supra which is without prejudice to any future right to comply and to file afresh.

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

Dr. B. SIVA SANKARA RAO, J

Date:06.01.2016.

VVR

[\[1\]](#) AIR 2015 SC 1758