

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1627 of 2013

ORDER:

Petitioner Nos. 1 to 5 seek to quash the proceedings against them in C.C.No.558 of 2012 on the file of Judicial First Class Magistrate at Adoni, Kurnool District, whereunder, they are charged for the offences under Sections 498-A of IPC and Section 4 of D.P. Act. A.1 is the husband of first respondent/de facto complainant and A.2 and A.3 are the married sisters and A.4 and A.6 are brothers of A.1 respectively.

2) The case of the prosecution is that marriage between A.1 and the *de facto* complainant held at Adoni on 09.04.2009 and their parents performed the marriage by presenting gold and other articles and immediately after marriage, the complainant joined the society of A.1 and lead happy marital life at Hyderabad, where A.1 was working as employee in Infosys. Later A.1 lost his job and he went into depression and under the false notion that his newly married wife brought him misfortune, A.1 used to ill-treat her by developing hatredness towards her and he used to taunt and bet her for silly reasons. After some time, A.1 got employment in Private IT Company at Hyderabad, still his attitude was not changed. A.1 on the instigation of other accused started demanding additional dowry of Rs.5,00,000/- from their parents. On 28.04.2011, the complainant went to her parents

house at Adoni and thereafter A.1 did not turn up to take back his wife. A panchayat was held on 18.03.2012 before elders in Bhajarangbali Temple for conciliation, but A.1 did not show his inclination to take back the complainant. On the other hand, A.1 and A.5 demanded additional dowry of Rs.5,00,000/-. Her complainant was investigated into and charge sheet was filed which was taken on file and registered as C.C.No.558 of 2012 by the learned Judicial Magistrate of First Class, Adoni,

Hence, the instant Petition by the petitioners/Accused.

3) Heard the arguments of learned counsel for the petitioner, learned counsel for respondent No.1 and the learned Public Prosecutor for the respondent No.2.

4) Denying the charges, learned counsel for the petitioners/A.1 to A.5 submitted that all the allegations are false and in fact, vexed with the attitude of the complainant, A.1 filed Divorce O.P.No.669 of 2012 against his wife in the Family Court, Rangareddy and as a counter blast, she filed the criminal case. He further submitted that A.2 and A.3 are married sisters and A.4 and A.5 are elder brothers of A.1 and they are all residing separately and they have nothing to do with the family affairs of A.1 and they are unnecessarily implicated in the case. He further submitted that even if the charge sheet allegations are taken to be true on their face value, still they do not constitute any offence insofar as A.2 to A.5 are concerned, since, except omnibus allegations of their

instigating A.1 to demand additional dowry of Rs.5,00,000/-, no specific allegation with required details is made against them. So far as A.1 is concerned, the allegations levelled against him are a counter blast to the divorce OP filed by him and in fact the said Divorce OP was allowed on 20.03.2014, which shows that the averments in the divorce OP are true and at the same time, the charge sheet allegations levelled against A.1 are false and therefore, continuation of the Criminal Proceedings against A.1 to A.5 would amount to abuse of process of the Court and hence, the petition may be allowed.

5) Per contra, learned counsel for respondent No.1/complainant argued that all the accused have ill-treated and harassed the complainant within short time after marriage and forced her to leave her marital home at Adoni and thereafter they did not take her back and even in the Panchayat held before the elders on 18.03.2012 also, the accused have not shown their willingness to take back the complainant and therefore, she was constrained to file the complaint and as such, the petition may be dismissed.

6) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

7) **POINT:** A perusal of 161 Cr.P.C. statements of the witnesses and Charge sheet allegations would indicate that

the main accusation is against A.1 alone as if he showed sadism towards complainant and harassed her like anything and did not show his inclination to take her to his fold in the Panchayat held by the community elders. In view of the *prima facie* material against A.1, it is not a fit case to quash the proceedings against him.

8) Sofar as the petitioners/A.2 and A.3 are concerned, they are married sisters and they are living separately and similarly, petitioners/A.4 and A.5 are concerned, they are staying in Karnataka. In that view of the matter, the allegation that they instigated A.1, appears to be highly improbable and they have been implicated in this case. As rightly submitted by the learned counsel for petitioners, except omnibus allegations that petitioners/A.2 to A.5 instigated A.1 to demand additional dowry, no specific allegation showing their harassing the complainant is made out by the prosecution. Therefore, in my considered view, the continuation of criminal proceedings against the petitioners/A.2 to A.5 would amount to abuse of process of court.

9) In the result, this Criminal Petition is allowed partly and the proceedings against the petitioners/A.2 to A.5 in C.C.No.558 of 2012 on the file of Judicial First Class Magistrate at Adoni, Kurnool District, are quashed. However, the proceedings against A.1 shall be continued.

As a sequel, miscellaneous petitions pending, if any,

shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 08.06.2016

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