

**THE HON'BLE SRI JUSTICE U.DURGA
PRASAD RAO**

Criminal Petition No.5976 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/ Accused No.2 to 4 seek to quash the proceedings against them in C.C.No.123 of 2012 on the file of Additional Junior Civil Judge, Mangalagiri, Guntur District.

2) First respondent/*de facto* complainant is the wife of A.1. Petitioner Nos. 2 and 4 are the brothers of A.1 and petitioner/A.3 is the wife of A.2. First respondent gave complaint to Tadikonda police Station, Guntur Urban, with the allegations that her marriage with A.1 took place in 1995 and out of their wedlock, they got two children and her husband is an agriculturist and later he was addicted to vices and thereby indebted to many people and started subjecting her and her children to many travails. It is further alleged that he was coming home in a drunken state during nights and abusing and kicking her with legs questioning her as to who would redeem his debts. He was demanding her to bring additional dowry from her parents by selling the land gifted by her parents as her parents gave less dowry during their marriage and as otherwise,

he would not live with her. Thereafter, the complainant sold Ac.0.90 cents of land gifted by her parents and gave it to A.1. Even after receiving that amount, he did not stop ill-treating her. The further allegations in the complaint are that on the night of 12.01.2012, as usual A.1 came in an inebriated state and abused her in vulgar language and kicked her with legs and hands and pushed her out. Thereafter, he went to the house of petitioners A.2 to A.4 and residing there. He developed illicit intimacy with one lady. Petitioners 2 to 4 beguiled A.1 and got registered Ac.0.60 cents of land and 218 sq. yards of vacant site from him and knocked away his property. Hence, they were indirectly responsible for spoiling her matrimonial life. The police after investigation laid charge sheet against accused for the offence under Section 498-A of IPC.

Hence, the instant quash petition.

3) Heard arguments of Sri Raja Reddy Koneti, learned counsel for petitioners and learned Public Prosecutor for the State. Notice sent to R.1 was not yet returned.

4) Refuting the allegations, learned counsel for petitioners vehemently argued that the petitioners/A.2 to A.4 are the divided brothers of A.1

and they have nothing to do with the family affairs of A.1 and his wife and they were unnecessarily implicated in the case by the complainant so as to bring down A.1 to her terms. He further argued that even if the charge sheet allegations are accepted to be true, they will not attract the charge under Section 498-A of IPC. He thus prayed to allow the petition.

5) Per contra, learned Public Prosecutor opposed the petition stating that FIR and Charge sheet are very much clear about the role of petitioners as they have cheated A.1 and obtained his property and further they gave ill-advice to A.1 against the complainant and therefore they are indirectly responsible for spoiling the happy marital life of *de facto* complainant. He, thus, prayed to dismiss the petition.

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

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

7) **POINT:** It is the contention of the petitioners that though they are divided brothers of A.1 and nothing to do with the family affairs of A.1, they are unnecessarily roped in the case by the complainant

to bend A.1 and even if the entire allegations in the FIR and Charge sheet are accepted to be true, they will not reveal the offence under Section 498-A IPC. In this context, the Hon'ble Apex Court in **State of Haryana and others vs. Ch. Bhajan Lal and others**^[1], has given certain guidelines as to when High Court can exercise the plenary powers under Section 482 Cr.P.C. to quash the proceedings. They are as follows:

“1. 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.

2. 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.

3. 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.

4. xx xx

5. xx xx

6. xx xx

7. xx xx

8) Further, deprecating the practice of complainant roping in as many relations of the husband in Section 498-A IPC cases, the Apex Court i n **Preeti Gupta v. State of Jharkhand**^[2], observed as follows:

“Para 35: The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband’s close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.”

9) In **Geeta Mehrotra and another v. State of U.P and another**^[3], the Apex Court cautioned that except a casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that

there is a tendency to involve the entire family members in domestic quarrels.

10) In the light of above, when the FIR, 161 Cr.P.C. statements and Charge sheet are scrutinized, it must be said that the allegations levelled against the petitioners/A.2 to A.4 do not bring home the charge under Section 498-A IPC as none of the allegations lead to their causing any sort of cruelty to the complainant even remotely. The FIR allegations, which are already extracted supra, would, at best reveal, all sorts of cruelties meted out by A.1 alone. We are not concerned with truth or falsity of the charge levelled against A.1. Petitioners/ A.2 to A.4 are concerned, the prosecution material reveals as if they cheated A.1 and knocked away Ac.0.60 cents of land and 218 Sq.yards of vacant site by obtaining a registered sale deed. This, according to complainant was to deprive the complainant and her children of the property of her husband. The further allegation against the petitioners is that they are indirectly responsible for spoiling the matrimonial life of the complainant. Even if the aforesaid allegations are accepted to be true on their face value, still they will not attract Section 498-A IPC because there is neither direct nor indirect exertion of cruelty by the

petitioners towards the complainant. Therefore, in my considered view, continuation of Criminal Proceedings against the petitioners/A.2 to A.4 would amount to abuse of process of the Court.

11) In the result, this Criminal Petition is allowed and the proceedings in C.C.No.123 of 2012 on the file of Additional Junior Civil Judge, Mangalagiri against the petitioners/Accused No.2 to 4 are quashed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 15.06.2016

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[\[1\]](#) AIR 1992 SC 604

[\[2\]](#) (2010) 7 SCC 667

[\[3\]](#) AIR 2013 SC 181