

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12868 of 2014

ORDER :

This Criminal Petition is filed by accused Nos.2 and 3, against respondent No.1—State of Telangana, through SHO, WPS, CCS, Hyderabad represented by public prosecutor and respondent No.2—defacto complainant, to quash the proceedings in C.C. No.620 of 2010 on the file of XIII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.

2) The calendar case is outcome of police investigation and final report in Crime No.304 of 2009 of WPS, CCS, Hyderabad registered against three accused viz., accused No.1—husband of defacto complainant and accused Nos.2 and 3 are parents-in-law of defacto complainant for the offences punishable under Sections 498-A and 506 IPC read with 34 IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961.

3) The report of defacto complainant dated 26.06.2009 (within two years four months after the marriage) addressed to the Inspector of WPS, CCS, Hyderabad running about four pages speak that:

(a) at the time of marriage between accused No.1 and defacto complainant, her grand father has given dowry of Rs.5,00,000/- in cash and spent Rs.2,00,000/- for the marriage and also provided 40 tulas gold and 300 Sq.yds of land on her name and after birth of a son, she went to her mother's house for five months and later returned to home to her husband. After six months, her grand father expired and after that her husband started beating her to meet the additional demands and on solving things, she did not kept the house neat and made her life miserable and she went to Nallakunta Police Station, through Inspector—Benjimen, who called her husband, spoke to him, there he depicted as if she is of mentally imbalanced and before that during Dasara vacation, he took her to poultry farm at Keesaragutta and there he tortured her for

about 15 days and he used to beat her with steel plates on her head and torturing to get amounts from her grand mother and not even allowed to call her mother and after Inspector—Benjimen called him and warned, he stopped coming to mid night for some time and even later he was coming home at mid nights and even at the time, beating her by dragging her from the bed to the floor, by pulling her legs and on the next day her in-laws, who were staying at her down stairs called her and scolded her. With the support and instigation of his parents, he was ill treating her to meet the additional demands and her in-laws were also ill treating her and tried to neck out her from the house. Accused are forcing her to go to Keesaragutta and if she goes there, either she will commit suicide or they will kill her, as nobody was there to come to her rescue even for her shouting there. It is further averred that during 9th month of her child, she along with her in-laws and husband, went to Tirupathi where also her husband beat her in the room for a silly reason for not kept milk bottle of the child in the suit case, hence to take action.

b) She enclosed doctor report of Andhra Mahila Sabha, Durgabai Deshmukh hospital, Nallakunta where she was treated. In the FIR, the address of accused No.1 shown as Rangapuram and accused Nos.2 and 3 also resident of Nalgonda District at Laxmi Poultry. In the charge sheet shown as native of Laxmi Poultry farm of Nalgonda, however residing at Balaji Nagar, Admikmet, Ramgundu, Hyderabad. The police registered the Crime No.304 of 2009 dated 26.06.2009 from the allegations covered by FIR supra, showing the husband and the defacto complainant residing at 1st floor and in-laws at ground floor of the same house. The charge sheet filed by police after investigation by examination of defacto complainant and her mother and three independent witnesses would show that even at the time of marriage, grand father of defacto complainant presented Rs.5,00,000/- cash and 40 tulas of cold, 300 sq.yds plot towards dowry besides Rs.2,00,000/- cash given for marriage expenses. After marriage while the couple residing at Balajinagar, Adikmet, she was happy for few months. Thereafter, her

husband at the instigation of his parents started ill treating physically and mentally after birth of a male child and after death of her grand father, to meet additional dowry and even for the birth of child, the medical expenses born by her parents during her pregnancy and even in the 9th month of the child, she was beaten by her husband when they went to Tirupathi and even during Dasara, her husband taken her to his native place, there at the support and instigation of her parents, ill treated and beaten her over head with meals plates and also harassed mentally and even Nallakunta police on her report warned him not to harass her, he did not change his attitude and started threatening her with dire consequences to meet the demands with a threat to give divorce and even the efforts through elders made to convince him failed and the case is made out against the accused persons for the offence under Section 498-A IPC and Sections 3 & 4 of D.P Act along with quash petition but for FIR and charge sheet no part-II CD filed. Undisputedly, it is after hearing, charges were framed by the trial Court against the three accused persons including accused Nos.2 and 3/ quash petitioners and case is at the stage of trial.

4) The contentions of petitioners/ accused Nos.2 and 3 in seeking to quash the Calendar Case in nutshell are that though the marriage of accused No.1 was performed with defacto complainant—respondent No.2 on 08.02.2007, giving at the time of marriage by the grand father of defacto complainant Rs.5,00,000/- cash, 40 tulas gold and 300 Sq.yds of land towards dowry and Rs.2,00,000/- towards marriage expenses are false. Though after the marriage, she joined her husband and led marital life and gave birth to a male child and later she lost her grand father, the allegations of later accused No.1 started harassing her and the accused Nos.2 and 3 were physically and mentally ill-treated her are false and created to harass her husband and in laws. It is contended that few days after the marriage, the accused No.1 and defacto complainant settled at Hyderabad and set up a separte family, whereas her in-laws are residents of Rangapuram Village, Bommala ramaram,

Nalgonda District; that while the couple staying at Hyderabad, blessed with a male child and it appears that there are some disputes between the couple and her in laws no way interfere with their matrimonial life. She falsely roped the in laws also by abuse of process and there is nothing to constitute any offence against them and the proceedings are nothing but vexatious and the learned Magistrate without perusal of the record taken cognizance from the police final report, hence to quash the proceedings.

5) Having regard to the above, there is nothing to quash the calendar case proceedings pending against the accused at the trial stage but for to say these observations will no way prejudice the right of defence of the accused before the trial Court.

6) Accordingly, the Criminal petition is disposed of giving liberty to file an application under Rule 37 of Cr.R.P before the trial Court for the petitioners/ accused Nos.2 and 3 to represent through accused No.1 before the trial Court during the course of trial but for personal appearance as and when required by the learned Magistrate concerned.

7) Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.23.03.2016

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