THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.25 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioners/A.1 to A.4 seek to quash the proceedings in C.C.No.192 of 2011 on the file of XXII Metropolitan Magistrate, at Hyderabad, wherein all of them were charge sheeted for the offences under Sec.498-A, 323 IPC and Sec.4 & 6 of Dowry Prohibition Act.

2) The *defacto* complainant is the wife of A.1. A.2 is the mother and A.3 and A.4 are married sisters of A.1. The charge sheet would show that the marriage between A.1 and *defacto* complainant took place on 15.12.2003 at Hyderabad and on the demand of accused, the parents of complainant gave cash of Rs.40,000/- as dowry and they presented gold ornaments worth Rs.2,50,000/-. A.1 worked as driver in Sharjah. After marriage they lived happily for few days and thereafter A.1 started harassing her and ill-treating. While she was carrying pregnancy, he used to beat her and thereby she got abortion. He returned from abroad and he did not pay any amount for her maintenance. It is further stated in the charge sheet that A.1 is a habitual drunkard. A.2 to A.4 also ill-treated the complainant. The accused demanded 2 tolas of gold and Rs.10,000/- from her parents. A.2 sold away the necklace, ear rings and rings

of the complainant. It is further stated that on 18.10.2004 A.1 came to their house in the night time in a drunken state and asked her parents to send the complainant. Her father asked him to come in the day time. He abused in filthy language and went and brought his sisters and all of them abused in most filthy language. In the charge sheet it is mentioned that A.2 to A.4 were absconding and summons to A.1 pending.

Hence the instant petition.

3) Notice sent to 2nd respondent/*defacto* complainant was returned unserved as she left the residence. Heard arguments of Sri Mohd. Faseehuddin, learned counsel for petitioners and learned Public Prosecutor for the State (Telangana).

4) Denying the charge sheet allegations, learned counsel for petitioners would submit that the matter between the parties was settled in the year 2005 in the Police Station and both *defacto* complainant and petitioners have entered into a settlement deed dt:12.05.2005. As per which the *defacto* complainant has received her entire Jahez articles and passed receipt attested by two witnesses and she also received Rs.1,00,000/-. She executed a divorce deed on 13.05.2005 in pursuance of the settlement. The police have informed that there was no truth in the complaint allegations and in view of the settlement, they would file the final report

but surprisingly filed charge sheet against the accused. Learned counsel thus submitted that petitioners are unnecessarily implicated in the case. He would submit that petitioners 3 and 4 are married sisters of A.1 and they are living with their respective husbands at Pune and Mumbai and hence they could not attend the Court. Learned counsel further submitted that as per the information of A.1, after settlement, the *defacto* complainant remarried and now living with her husband in abroad and she has no interest in the case and her residence in Petlaburuj was acquired by the Government and that was why her notice was returned. In these circumstances, he would submit, the proceedings may be quashed.

5) Learned public prosecutor opposed the petition stating that charge sheet was already filed and NBWs are pending against some of the accused and therefore, proceedings may not be quashed.

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

"Whether there are merits in this petition to allow"

7) **POINT**: The record shows that charge sheet was already filed against the petitioners whereunder NBWs are pending against A.2 to A.4. Hence, as rightly submitted by learned Public Prosecutor, it is not a fit case to quash the proceedings. However, in view of the submission of learned

counsel for petitioners that there was a settlement between the parties, the petitioners/A.1 to A.4 are given liberty to appear before the trial Court and move appropriate applications for recall of warrants and also to discharge them from the case. In such an event, the trial Court shall recall the warrants if pending and after ascertaining about the whereabouts of the *defacto* complainant pass an appropriate order on merits in the discharge applications.

8) This Criminal Petition is disposed of with the above observations.

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

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U.DURGA PRASAD RAO, J

Dt: 08.06.2016

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