

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.15286 of 2016

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in Cr.No.431 of 2016 of Mailardevpally Police Station, Cyberabad District, registered for the offences punishable under Sections 498-A, 354, 323 read with Section 34 IPC and under Sections 4 and 6 of Dowry Prohibition Act (for short 'the Act') and under Section 156(3) Cr.P.C., against petitioner/A1.

2. The first respondent filed a private complaint before the VIII Metropolitan Magistrate, Cyberabad at Rajendranagar, who in turn referred the matter by exercising power under Section 156(3) Cr.P.C. to the police for investigation, and on receipt of the reference from the Court, the police registered the above crime against the petitioner and others. The petitioner/A1 is the husband of complainant and the allegation made against him in the complaint is that at the time of marriage, A1 and his parents received an amount of Rs.1 lakh, 6 tulas of gold, 25 tulas of silver, one two wheeler and all household articles, towards dowry. Subsequently, the complainant joined with A1 and they led happy marital life for one month. Thereafter, the accused started harassing her both physically and mentally. Petitioner used to come in drunken state and beat the complainant for additional dowry. She also made certain allegations against the other accused, which are not necessary for deciding the present petition.

3. From a bare reading of the allegations made in the complaint, petitioner/A1 subjected the first respondent to 'cruelty' which defines under exception (2) of Section 498-A IPC, as under:

(a) any wilful conduct which is of such a nature as it likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of woman, where such harassment is with a view to concerning her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand"

Even if the allegations made in the complaint have taken into consideration on its face value, they would constitute the offence punishable under Section 498-A IPC.

4. Further, the allegation made in the complaint is that the petitioner and other accused have received a sum of Rs.1 lakh, gold, silver and other household articles referred to above towards dowry at the time of marriage. Section 2 of the Act defines 'dowry', as under:

'dowry' means any property or valuable security given or agreed to be given either directly or indirectly—

(a) by one party to a marriage to the other party to the marriage;

or

(b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before ¹ [or any time after the marriage] ² [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Section 4 of the Act prescribes penalty for demanding dowry. Section 6 of the Act deals with dowry to be for the benefit of wife or her heirs, but this Section would not attract the allegations made in the complaint, however, they would fall under Section 4 of the Act. Thus, demanding additional dowry and also receipt of a sum of Rs.1 lakh, gold, silver and other household articles towards dowry at the time of marriage would fall within the ambit of 'dowry' under Section 2 of the Act.

5. The jurisdiction of this Court under Section 482 Cr.P.C. is limited and such jurisdiction has to be exercised in exceptional circumstances where the allegations made in the charge sheet on its face value would not constitute an offence punishable under either of the Sections mentioned in the charge. This principle was laid down in **State of Haryana v. Bhajanlal**¹ wherein the Apex Court laid down 7 guidelines, which are extracted hereunder:

(a) 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;

(b) 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;

(c) 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;

¹ 1992(1) SCC 335

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

6. In **Madhavrao Jiwaji Rao Scindia vs. Sambhajirao Chandrojirao Angre**² wherein the Apex Court held that a test to be applied by the Court as to whether uncontroverted allegation as made *prima facie* establish the offence.

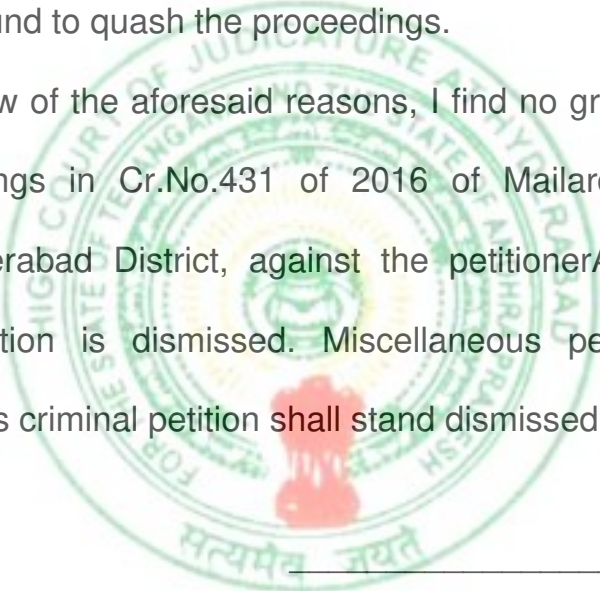
7. In view of the principles laid down in the above two judgments, it is clear that if this Court finds that the allegations made in the charge sheet would not attract the offences punishable under Section 498-A IPC or under Sections 4 and 6 of the Act on its face value, this Court can certainly interfere with the proceedings while exercising jurisdiction under Section 482 Cr.P.C. and quash the same. But in the present case, serious allegations are made, however, subject to proof would constitute the offence, *prima facie*

² 1998 SC 709

on its face value, under Section 498-A IPC and under Sections 4 of Dowry Prohibition Act. Therefore, I am unable to exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings against petitioner/A1 in the aforesaid crime.

8. Learned counsel for the petitioner would contend that the complainant lived with the petitioner and led happy marital life for 10 days and that she voluntarily deserted the company of petitioner in the month of April, 2016 and therefore, she is not interested to live with him. These are all the subject matter of trial and consequently, it is not a ground to quash the proceedings.

9. In view of the aforesaid reasons, I find no grounds to quash the proceedings in Cr.No.431 of 2016 of Mailardevpally Police Station, Cyberabad District, against the petitioner A1. Hence, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.



M. SATYANARAYANA MURTHY, J

27th October, 2016

sj