

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.14526 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.1264 of 2016 on the file of Additional Judicial Magistrate of First Class at Karimnagar, Karimnagar District for the offences punishable under Sections 498-A, 506 IPC and Section 4 of Dowry Prohibition Act (for short "the D.P.Act). The 1st respondent Peddi Srujana lodged a complaint with the police alleging that her marriage was solemnized with the 1st accused at Hanmakonda Chourasta of Warangal District on 12-12-2014. At the time of marriage, the parents of the complainant have paid Rs.20.00 lakhs in cash and presented 50 tolas of gold and 3 kgs of silver, one Innova Car. On 16-08-2014, presented a platinum ring to the 1st petitioner at the time of engagement at Prathima Multiplex, Karimnagar. After her marriage, her husband, father-in-law Shiva Kumar, mother-in-law Vanamala, sister-in-laws Ansumathi, Angamathi, brother-in-law Karthikeya Kumar, relatives of her husband Seelam Mallikarjun and his wife started harassment of the complainant physically and mentally to give half share of her father's property to her husband and also to bring additional dowry of Rs.20,00,000/- from her parents. They also threatened that if she did not fulfill their demands, she will not be allowed to go to college for studies. Before marriage, the complainant was married another person by name Srikanth and obtained divorce due to unbearable harassment. The said fact was informed to the

1st petitioner and his family members and after agreeing for the same, he married the complainant. On 04-01-2015, husband of complainant and above said persons attacked on her, harassed physically to bring additional dowry of Rs.20.00 lakhs and to give half share in the property of her father. Based on the above complaint, the police registered F.I.R in Cr.No.144 of 2015. Later investigated into and filed charge sheet before the Court of Additional Judicial Magistrate of First Class at Karimnagar.

The present petition is filed mainly on three grounds. The 1st ground is that the allegations made in the complaint on its face value accepting in its entirety would not constitute *prima facie* offence for the offences punishable under Sections 498-A and 506 IPC, the second ground is that complainant lodged the complaint after receiving notice in OP. No.102 of 2014 filed under Hindu Marriage Act for annulment of marriage on 23-06-2015 by the 1st petitioner and that apart, the notice served on the 1st respondent on 09-10-2015 and she lodged complaint on 14-11-2015 at 12.30 hours, almost more than one month after receipt of notice. The 3rd ground urged before this Court is that the complainant approached the police with false allegations and when she suppressed certain material, she is disentitled to prosecute the proceedings in C.C.No.1264 of 2016 against the petitioners. The 1st respondent allegedly mentioned her date of birth in the bio-data submitted to Munnurukapu Marriage Bureau as 16-09-1988, whereas in pass-port her date of birth was shown as 16-08-1986. Thus, she suppressed several facts, thereby not entitled to prosecute the complaint before the Additional Judicial Magistrate of First Class at Karimnagar.

The 1st respondent received notice in the matter, but she did not either appear in person or through Advocate.

The specific allegations made in the complaint would go to show that at the time of marriage, the parents of the complainant paid Rs.20.00 lakhs in cash, presented gold and silver articles of 50 tolas and 3 kgs respectively and Innova Car and at the time of engagement, her parents presented platinum ring to her husband. As such, payment and presentation of gold and silver etc., is not specific, whether the amount was paid either to her husband or to his parents or in-laws of the 1st respondent except making a bald allegations. The complaint further discloses that all the petitioners subjected her to cruelty without disclosing the date, time and other details to constitute the offence, except making omnibus allegation or vague allegation, even did not disclose the details of demand. Therefore, the demand made earlier after the marriage is doubtful. Moreover, payment of cash or even presentation of gold ring to the husband of 1st respondent would fall within the definition of dowry as defined under Section 2 of DP Act. In the charge sheet, there is specific allegation that LW.2 has taken back Innova vehicle from A-1 and sold it to others and 50 tolas of gold and 3 kgs of silver along with LW.1. The charge sheet was not filed for the offence under Section 3, but filed only for the offence punishable under Section 4 of D.P.Act. But the allegations made in the complaint at best to show that A-1 demanded to bring additional dowry of Rs.20.00 lakhs from her parents and also threatened if she did not fulfill the demand, he will not allow her to go to college. On the basis of vague allegations, it is difficult to come to conclusion that the complainant was subjected to harassment by the

petitioners 2 and 3. Learned counsel for the petitioners would contend that vague allegation is not sufficient and draws the attention of this Court to the judgment of **Sushil Kumar Sharma v. Union of India**¹. In para No.19 of the judgment, the Supreme Court, highlighted the object of prevention of dowry menace and held as follows:

“The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignomy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre- conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the

¹ (2005) 6 Supreme Court Cases 281

courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumption are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that in innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

He also relied on the judgment of **Preeti Gupta v. State of Jharkhand**², the Supreme Court held as follows:

“ It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with 18 matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

It is a matter of common experience that most of these complaints under [section 498-A](#) IPC are filed in the heat of the 19 moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong

² (2010) 7 Supreme Court Cases 667

to a noble profession must maintain its noble traditions and should treat every complaint under [section 498-A](#) as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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 husband and all his immediate relations is also not uncommon. At times, even after the conclusion of 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”.

In other judgment of **Geeta Mehrotra v. State of Uttar Pradesh**³, the Supreme Court while placing reliance on the judgment of **G.V.Rao v L.H.V.Prasad** (2000) 3 SCC 693) and **B.S.Joshi v. State of Haryana** held as follows:

“Though the contents of the complaint made out a prima facie against the husband of Respondent 2 wife and some other family members, but no such case was made out against the appellant-accused. There were no specific allegations against the appellant-accused (sister and brother of the husband) so as to make them liable for bickering between Respondent 2 wife and her husband. There was no specific allegation against the appellant-accused that they demanded any dowry from Respondent 2. Casual reference to a large number of members of the husband’s family without any allegation of active involvement would not justify taking cognizance against them and subjecting them to trial. Respondent 2 wife had

³ (2012) 10 Supreme Court Cases 741

obtained an *ex parte* divorce decree against her husband. This was also a relevant fact. Under these conditions, the High Court erred in not considering the entire circumstances of the case with regard to the appellant-accused. It disposed of the matter only on the issue of territorial jurisdiction without even looking at the other issues raised. Though it was justified in not deciding the issue of territorial jurisdiction under Section 482 Cr.P.C. but it failed to apply its mind to the case and determine whether the appellant-accused be subjected to trial. The High Court ought to have considered that even if the trial Court had the jurisdiction to hold the trial, the question still remained as to whether the trial against the appellant brother and sister of the husband was fit to be continued and whether that would amount to abuse of process of court. As the contents of the FIR indicated that the appellant-accused were casually referred to and no prima facie case was made out against them, in the absence of specific allegations, criminal proceedings against them are quashed without remanding the matter to High Court for reconsideration.”

In the present case, the facts of the case that allegations made against husband i.e. the 1st petitioner directly pointing out his involvement in the offence punishable under Section 498-A IPC received platinum Ring on the date of Betrothal Ceremony from her parents would constitute an offence punishable under Section 3 of D.P.Act. But the other allegations made against other accused i.e. petitioners 2 to 7 are not specific. On the other hand, the property that was given to the 1st accused was taken away by LW.2 i.e. the father of the 1st respondent and he sold away that car. The 1st respondent retained both gold and silver articles with her. Therefore, the allegations made against the petitioners 2 to 7 are not sufficient to constitute the offence. Consequently, the proceedings against the petitioners 2 to 7 are liable to be quashed,

since allegations made against them do not attract the offences punishable under Sections 506 and Section 4 of D.P.Act. It is also brought to the notice of the Court that the 1st petitioner filed OP.No.102 of 2014 for annulment of marriage under Section 12 (1) C of Hindu Marriage Act. But having received notice, the complainant lodged complaint with the police, as if the petitioners committed serious offence. But as seen from the allegations made in the charge sheet, the incident said to have occurred prior to 14-11-2015 at Hanmakonda, but she kept quite without lodging complaint and she never made any complaint earlier to any other authority. Moreover, she lodged complaint after receiving notice in OP.No.102 of 2014 on 09-10-2015. Thus, it appears that the complaint was lodged to harass the petitioners to wreck vengeance against them as an abuse of process of Court. Therefore, on this ground, the proceedings in C.C.No.1264 of 2016 on the file of Additional Judicial Magistrate of First Class at Karimnagar, Karimnagar District against the petitioners 2 to 7 are liable to be quashed.

The other ground raised before this Court is that she suppressed several facts like disclosing date of birth in bio-data furnished to Munnurukapu Marriage Bureau and in pass-port. There is little discrepancy of month and year of date of birth, but that is not sufficient to quash the proceedings against the 1st petitioner, as the discrepancy pointed is irrelevant.

In any view of the matter, the power under section 482 Cr.P.C. can be exercised only in exceptional circumstances and more particularly, when the allegations made in the complaint on its face value, if accepted in entirety would not constitute any

offence, as per the guideline No.1 in **State of Haryana v. Bajan Lal**⁴, as the allegations made against the 1st petitioner prima facie constitute the offence, I find existence of no ground to proceed against the petitioners 2 to 7 for the said offences.

In **L.Muniswamy v. State of Karnataka**⁵, the Supreme Court reminded the obligation of the Court to exercise power under Section 482 Cr.P.C. and held as under:

“In the exercise of this whole some power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the; ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to. achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the, ends of mere law though justice has got to be. administered according to laws made by the, legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to. save the inherent powers of the High Court to do justice between the State and its. subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

If, the principle laid down in Muniswamy's case is applied to the facts of the present case, the proceedings against the petitioners 2 to 7 are liable to be quashed in C.C.No.1264 of 2016

⁴ AIR 1992 SC 604

⁵ AIR 1977 SC 1489

pending on the file of Additional Judicial Magistrate of First Class at Karimnagar, Karimnagar District, while permitting to continue the proceedings against the 1st petitioner and it is left open to the 1st petitioner to raise any contentions in appropriate proceedings.

In the result, the criminal petition is disposed of. The proceedings in C.C.No.1264 of 2016 pending on the file of Additional Judicial Magistrate of First Class at Karimnagar, against petitioners 2 to 7 are hereby quashed, while permitting the trial Court to proceed with trial against the 1st petitioner. Consequently, miscellaneous petitions, if any, pending in this Petition shall stand closed.

22.12.2016
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JUSTICE M. SATYANARAYANA MURTHY

