

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16958 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.62 of 2016 of Women Police Station Adilabad, Adilabad District, for the offence punishable under Sections 498-A IPC, 3 &4 of Dowry Prohibition Act.

The petitioners are Accused Nos 4 & 5, who are the brother and sister respectively of the husband of the second respondent/defacto complainant.

The facts of the case are that the parents of the defacto complainant paid an amount of Rs.10,00,000/- to her in-laws at the time of marriage towards dowry, as per their demand, besides presentation of gold and silver ornaments worth Rs.3,00,000/- and household articles. The defacto complainant and her husband lived together happily for sometime. Later, the petitioners herein along with the defacto complainant, her mother in law and father in law demanded the defacto complainant to bring additional dowry of Rs.10,00,000/- and subjected her to cruelty. The defacto complainant informed the same to her parents and her parents paid a sum of Rs.5,00,000/- to her husband. After few months, the petitioners herein, husband and in-laws of the defacto complainant started harassing her to bring additional dowry of Rs.5,00,000/- physically and mentally. Unable to bear with their cruel acts, the

defacto complainant lodged a complaint before the police on 01-11-2016.

On the strength of those allegations, the police registered Crime No.62 of 2016 of Women Police Station Adilabad, Adilabad District, for the offence punishable under Sections 498-A IPC, 3 & 4 of Dowry Prohibition Act against the petitioners and three others i.e. husband and in-laws and issued F.I.R which is at the stage of investigation.

Learned counsel for the petitioners Sri M.V.V. Baswaraj contended that except a bald allegation in the complaint, no specific allegation is attributed against the petitioners who are brother and sister of the husband of the defacto complainant. That apart, the first petitioner is a married woman residing at Gaddiannaram at Hyderabad. Whereas, the second petitioner is a student prosecuting his studies and preparing for civil services examination, staying at New Delhi. Therefore, in the absence of specific allegations, they cannot be roped with the offence punishable under Sections 498-A IPC, 3 & 4 of Dowry Prohibition Act, based on a complaint dated 01.11.2016.

The first and foremost contention of the learned counsel for the petitioners is that, there are no specific allegations against these petitioners in the complaint. But this contention is without any merit, in view of the specific allegation made in the first page of the complaint that the husband of the defacto complainant, her in-laws and the present petitioners subjected her to cruelty demanding Rs.10,00,000/-. These allegations are suffice on the face value of it to constitute an offence punishable under Section 4

of Dowry Prohibition Act and Section 498-A of IPC.

Even otherwise, it is only the information to the police about cognizable offence to set the criminal law into motion and the complaint is not an encyclopedia of facts with minute details. Therefore, absence of any specific allegation with date, time, etcetera is not sufficient to quash the proceedings in Crime No.62 of 2016 of Women Police Station, Adilabad, at this stage.

Moreover, the other contention regarding their absence at place of occurrence cannot be decided at this stage while deciding a petition under Section 482 Cr.P.C while exercising inherent power, which can be exercised sparingly in exceptional circumstances. The inherent power under Section 482 Cr.P.C can be exercised except to give effect to the orders passed by this Court, to prevent abuse of process of the Court and to meet the ends of justice.. Such inherent power should not be exercised by the Court to stifle the legitimate prosecution. This Court being the highest Court of the State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. While exercising jurisdiction under Section 482 of the Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only prima facie be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material

and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. (vide **State Of Orissa v. Saroj Kumar Sahoo**¹)

If the principle laid down in the above judgment is applied to the present facts of the case at this stage, it is highly difficult for this Court to decide whether the marriage of the first petitioner was performed and staying at outside and whether the second petitioner is staying at New Delhi for preparation of civil services examination, based on bald allegations made in the present petition. Moreover, the plea of alibi is a disputed question of fact. Hence, it is not a ground to quash the proceedings at this stage.

The law laid down by the Apex Court in **State of Haryana v. Bhajan Lal**² is that when the allegations are made in the F.I.R or the complaint, if they are taken on its face value are accepted, they do not prima facie constitute an offence or make out an offence, the Court can exercise its inherent power to quash the proceedings. Similarly, when the complaint is lodged to wreck vengeance with personal grudge as an abuse of process of law, the Court can exercise jurisdiction under Section 482 Cr.P.C.

But, here, the only contention raised before this Court was that these petitioners were not available at the time of alleged occurrence. But, it is a disputed question of fact which cannot be decided by this Court while exercising power under Section 482 Cr.P.C.

¹ (2005) 13 SCC 540

² (1992) Supp 1 335

Hence, I find no ground to quash the proceedings at this stage, since the investigation is at fetus stage. The criminal petition is liable to be dismissed at the stage of admission.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous petitions, if any, pending in this Petition shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

21.12.2016
SP

