

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.2872 of 2016

ORDER:

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The petitioners, who are A1 and A2, filed the present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of their arrest in connection with Crime No.2 of 2016 of Mahila Police Station, Vijayawada District, registered for the offences punishable under Sections 498A, 509, 376 r/w Section 511, Sections 354, 341, 420 and 323 of IPC.

The facts of the case are as under:

The marriage of the informant with A1 took place on 06.03.2004. Prior to the said marriage, the father of the informant sold land which was given to her as 'stridhana'. As per the demand of A2, cash of Rs.18 lakhs, 80 tulas gold was given to A1 as dowry. Further, A2 invested 25% share in the name of the informant in Ongole K.V.S.Bar and Restaurant assuring that he shall give Rs.30,000/- in the income of her share, and paid the same for 3 months. Later he started postponing the said payment on one pretext or the other. Subsequently, after few months, A1 along with his family members started harassing the informant physically and mentally. A1 is alleged to have beat the informant confining her in a room without giving food and water and demanded the informant to give their children to his sisters, who had no issues. A1 is alleged to have demanded additional dowry, misbehaved with the informant under intoxication, beat her cruelly and when the same was brought to the notice of A1, he paid a deaf ear and further used to burn with cigars on the private parts under intoxication. Even when the informant had a second issue, A1 demanded her to give his child to his younger sister. It is alleged that A1 had illicit relationship with others. After performing marriage to the sister of the informant, A1 and A2 continued to harass the informant demanding additional dowry and none of

the neighbor came to her rescue knowing the cruel attitude of A1 and his family. It is alleged that previously A2 is involved in criminal cases. Further, A2 is alleged to have sexually harassed the informant and A1 never objected him from the said act. A1 and all other accused harassed the informant on different occasions and threatened her with dire consequences if the matter is revealed to others. It is alleged that there was no change in the attitude of the accused and they never gave due respect to the parents of the informant. on 01.11.2015, when the informant was at her parents house (at Machavaram town), A1 reached their house, beat and abused her parents and brother under drunken condition and forced the informant to come home failing which he threatened to kill her children. When the said act was informed to the police, A1 left the place before the police arrived. On one occasion, A1 and his sisters attempted to kill her by setting her ablaze. Basing on these allegations the present case came to be registered.

The main ground urged by learned counsel for the petitioners is that acts of harassment took place at Prakasam and as such the police at Vijayawada has no jurisdiction to investigate the case. The second ground urged by the petitioners is that the informant left the first petitioner in the year 2012 itself when the petitioner fell sick and for the sake of property and 25% share in the K.V.S Bar and restaurant which is in the hands of A2, the informant lodged a report. He further submits that A1 is sick person taking treatment in KIMS hospital frequently. In view of the same and since the second petitioner is aged about 72 years, he seeks anticipatory bail.

Learned public prosecutor contends that the allegations made in the report are grave and serious in nature. He further submits that incidents of harassment took place even at Vijayawada while the informant was at parents' house and hence, it cannot be said that the police at Vijayawada has no jurisdiction to try the offences.

As seen from the averments in the report dated 01.11.2015, when

the informant was at her parents house (at Machavaram town), A1 reached their house, beat and abused her parents and brother under drunken condition and forced the informant to come home failing which he threatened to kill her children. When the said act was informed to the police, A1 left the place before the arrival of police. Even on 08.11.2015, A1 and A2 approached the informant at Vijayawada, gave false assurances to look after the informant. But, later, all the accused are alleged to have threatened the informant through phone and even when the informant reached her matrimonial home, the act of harassment continued against her.

In view of the above it cannot be said police at Vijayawada has no jurisdiction to trial the case. A reading of the allegations against both the accused in the FIR amply discloses the manner in which the informant was harassed. It is stated that on one occasion the A1 is alleged to have attempted to set her ablaze with petrol demanding additional dowry. The second petitioner, who is father of A1, is alleged to have attempted to commit rape in drunken condition. These facts of harassment used to happen regularly, but she kept quiet with a hope of change in the attitude of the accused. The averments further disclose that A1 being husband of the informant never came to her rescue when A2 sexually harassed her. Insofar as medical grounds are concerned, A1, who is the husband of the informant, took treatment for Herpes simple Encephalitis in the year 2012 and was admitted in the hospital for a period of one week in the year 2012 itself. Insofar as the treatment taken in the year 2015 at Apollo hospitals is concerned it was a case of repeated episodes of anger and LOC with 4 to 5 attacks.

Having regard to the allegations made, which in my view are grave in nature, I am not inclined to consider the request made by the petitioners.

Accordingly, the criminal petition is dismissed.

14.03.2016
vnb

JUSTICE C. PRAVEEN KUMAR