

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.638 of 2016

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ORDER:

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Aggrieved by the order, dated 13.01.2016 passed in Crl.M.P.No.13 of 2015 in S.C.No.324 of 2015 on the file of the II Additional Assistant Sessions Judge, Guntur, wherein and whereunder accused Nos.2 and 4 were discharged, the present revision is filed by the complainant.

A charge sheet came to be filed against accused Nos.1 to 5 in Crime No.18 of 2014 of Nagarampalem Police Station, for the offences punishable under sections 498-A, 342 and 307 read with 34 IPC. The averments in the charge sheet are as under:

The marriage of the complainant with accused No.1 took place on 28.05.2011. At the time of marriage, the parents of the informant gave cash of Rs.5.00 lakhs, one portion of house in Undavalli Centre, gold as dowry and cash of Rs.1,25,000/- towards adapaduchu katnam. Accused No.1 along with accused No.3 and 5, who are mother and sister of accused No.1 are alleged to have harassed the informant mentally. Later accused No.1 kept the informant in Sai Krupa Apartments, Red Hills, Hyderabad to lead a separate family life. When the informant became pregnant, accused No.1 forced her to get aborted but she refused to do so. When the mother of the informant came to her house, accused No.1 attacked and demanded her not to come to their house, when she became unconscious accused No.1 admitted her in Yasoda Hospital and threatened the informant not to inform the same to her father. The informant gave birth to a

male child on 28.07.2012. Accused No.1 developed illegal contacts with one nurse by name Prema. On coming to know about the same, the parents of the informant held a panchayat. After the panchayat, accused No.1 wrongfully restrained the informant in the house and did not provide food. He used to come to the house once in three days. Accused No.1 also beat her. On 01.12.2013 accused No.1 brought his friends and threatened the informant to give divorce. When she refused accused No.1 forcibly administered good night liquid to her with an intention to kill her. Basing on these allegations the above case came to be registered.

The said charge sheet was taken on file as P.R.C.No.7 of 2015 and after committal came to be numbered as S.C.No.324 of 2015. Accused Nos.2 and 4, who are the father and brother-in-law of accused No.1 filed Crl.M.P.No.13 of 2015 under Section 227 of Cr.P.C. seeking discharge from the charges levelled against them. The learned II Additional Assistant Sessions Guntur, allowed the said petition and discharged accused Nos.2 and 4 on the ground that no specific overt acts are attributed towards them. Challenging the same, the informant preferred the present revision.

Learned counsel for the petitioner mainly submits that though the allegations in the charge sheet do not attribute any specific role against accused Nos.2 and 4, but the 161 Cr.P.C. statements of the witnesses recorded by the police during the course of investigation amply establish their involvement in the commission of offence.

On the other hand, learned counsel for respondent Nos.2 and 3/accused Nos.2 and 4 opposed the revision contending that

even in 161 Cr.P.C. statements, no specific role is attributed to accused Nos.2 and 4 except making vague and omnibus allegations.

In order to appreciate the rival arguments, it would be useful to refer to the relevant portion of the 161 Cr.P.C. statement of the informant recorded by the police during the course of investigation.

“When my mother came to my house to perform “Srimantham”, my husband, my mother-in-law, sister-in-law and uncles stated that not to come to my house and attacked on my mother. My mother fell unconscious. My husband joined my mother in Yasoda Hospital and threatened me not to inform the said incident to my father.”

“My husband, my mother-in-law, father-in-law and sister-in-law, her husband used to harass me both mentally and physically by demanding additional dowry. With an intention to kill me, my husband administered good knight liquid to me.”

Insofar as the statements of LWs.2 and 3, they are not direct witnesses to the incident and their version is based on the information furnished by LW.1. LW.1 in her statement does not anywhere attribute any specific role to accused Nos.2 and 4. Vague and omnibus allegations are made at two places stating that all the accused including accused Nos.2 and 4 demanded the mother of the informant not to come to their house and to bring additional dowry.

In ***NEELU CHOPRA AND ANOTHER V. BHARTI***^[1], the Apex Court was dealing with a case where the parents-in-law of the respondent were shown as accused for an offence punishable under Sections 406 and 498-A read with Section 114 of IPC. The

Apex Court held that in order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. The Apex Court found that the allegations in the said complaint were vague, as it does not show as to which accused has committed what offence and what is the exact role played by them in the commission of crime. Under these circumstances, the Apex Court found that continuation of proceedings against the in-laws would be an abuse of process of law.

In ***GEETA MEHROTRA' V. STATE of UP***^[2], the Apex Court held that mere casual references of the names of the family members in a matrimonial dispute without any allegation of active involvement in the matter would not justify taking cognizance against them in view of overlooking facts borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute. The Apex Court also observed that if the FIR as it stands does not disclose specific allegation against the accused, especially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the Court to take cognizance of the case against the relatives of the main accused who are prima facie not found to have indulged in the torture of the complainant.

In **Preeti Gupta v. State of Jharkhand**^[3], the Apex Court pointed out that in cases of this nature, allegations in the complaint should be scrutinized with great care and circumspection especially against the husband's relatives who are living in different cities, who never visit or rarely visit the matrimonial house of the complainant. The Supreme Court reminded the member of the Bar and Bench of their social responsibility and obligation to ensure that social fiber of family life is not ruined or demolished.

In view of the judgments of the Apex Court referred to above and having regard to the fact that the allegations made against accused Nos.2 and 4 are vague and omnibus in nature, continuation of proceedings against them would be an abuse of process of law. Hence, the order under challenge warrants no interference.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.04.2016
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^[1] 2009(4) JCC 3021

^[2] (2012) 10 SCC 741

^[3] (2010)7 SCC 667