

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.8981 of 2015

ORDER

This petition under Section 482 Cr.P.C., is filed to quash the proceedings in C.C.No.457 of 2015 on the file of the Court of Judicial First Class Magistrate, Nalgonda for the offences punishable under Section 498-A IPC and Section 4 of Dowry Prohibition Act.

The respondent No.2 lodged a complaint with the police making serious allegations against the petitioners and other two accused for the offences punishable under Section 498-A IPC and Section 4 of Dowry Prohibition Act and the same was registered as Crime No.09/2015. The police took up investigation and during investigation examined four (04) witnesses, recorded their statements under Section 161 Cr.P.C and on completion of investigation filed charge sheet before the Judicial Magistrate 1st Class, Nalgonda, making serious allegations.

The facts of the case are that the marriage of 2nd respondent and A1 was performed on 06.08.2009 and at the time of marriage the parent of 2nd respondent gave two lakhs cash and 20 tolas of gold, Ac.2.5 of land and one house site plot as dowry and Rs.50,000/- in cash towards 'pasupu kumkuma'. Thereafter, the complainant joined 1st accused and led marital life for some days. A1 went to Bangalore as he was working there. He used to visit twice in a month. After the marriage, for about 6 months, she stayed in the house of her in-laws at Secunderabad. The petitioners/A4 and A5 were also staying with A2 and A3. They used to harass the 2nd respondent both mentally and physically

saying that she has no fair complexion and is not beautiful and her parents have given meagre dowry. Later A1 came to Secunderabad and took 2nd respondent with him. The accused A2 to A5 frequently used to visit Bangalore and harassed the complainant demanding her to bring additional dowry of Rs.3,00,000/- and also demanded to dispose of the land which was given and registered in her name.

The main contention before this Court is that petitioners A4 and A5 are residing at a distant place as A5 was working in Armed forces by the date of alleged incident and the 4th accused was living with him. Therefore, the question of their harassing the 2nd respondent by them would not arise. It is also contended that the complaint was lodged within three months from the date of filing of the OP on 17.12.2014. Therefore, the 2nd respondent lodged a report with an ill motive and to abuse the process of Court and requested to quash the proceedings.

Admittedly, the dispute is purely criminal. The petitioners' contention before this Court is that they are living in a distant place. As seen from the allegations made in the complaint, the petitioners used to reside with A2 and A3 at Secunderabad and harass the 2nd respondent for payment of additional dowry of Rs.3 lakhs.

The statement recorded by police during investigation are not placed on record except report lodged with police. Unless those statements are filed, which is a part of charge sheet, it is difficult to hold that petitioners are staying along with the 2nd respondent i.e., in the house A2 and A3. However, as per the

guidelines laid down by Apex Court in ***Rajesh Sharma v. State of U.P.*¹** the duty of the Court is to refer the matter to the Committee constituted by the Court as per the directions mentioned therein to decide whether the proceedings against the petitioners be continued or not. The said judgment is binding on this Court.

Hence, Magistrate is directed to refer the matter to follow the guidelines issued by Apex Court in **Rajesh Sharma's case.**

With the above observation, without touching other merits of the case, the Criminal Petition is disposed of.

Consequently, miscellaneous petitions pending if any, shall stand closed. No costs.



JUSTICE M. SATYANARAYANA MURTHY

Dated: 26.12.2017

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¹ 2017 (2) ALT (Cri.) 393 (SC)