

**HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**Criminal Petition No.3436 of 2017**

**ORDER:**

In this petition filed under Sec.438 Cr.P.C, the petitioner/A.1 seeks anticipatory. The private complaint filed by the *defacto* complainant before the Judicial Magistrate of First Class, Kodad was forwarded to police of Kodad Town P.S, which was registered as case in Crime No.81 of 2017 for the offences under Sec.498-A, 313, 504 read with 34 IPC and Sec.3 and 4 of Dowry Prohibition Act against A.1 to A.3 and investigated into.

2) The case of *defacto* complainant briefly is that she was married to A.1 on 30.05.2015 at Kodad village and at the time of marriage negotiations, it was informed by the accused that A.1 was an eye specialist. Believing the same, the mother of the complainant gave Rs.9,00,000/- as dowry and 10 Tolas of gold and other articles to accused. A.2 and A.3 are the parents of A.1. Immediately after marriage, the complainant joined the society of A.1 and led happy marital life only for one month. Thereafter, due to the ill advices of A.2 and A.3, A.1 started demanding additional dowry of Rs.4,00,000/- from the complainant. It is alleged, all the accused started harassing the complainant physically and mentally. At the time of marriage negotiations it was told by the mother of the complainant that the complainant underwent a heart operation. Having fully known about the said fact, the parents of A.1 demanded additional dowry of

Rs.1,00,000/-, which was paid. While-so, the complainant came to know that A1 was not an eye specialist but he was only a diploma holder. The complainant became pregnant, which was not liked by the accused and therefore, A1 administered some medicine, got aborted her pregnancy. Thereafter all the accused drove away the complainant to her mother. Her mother raised a dispute before the elders who reprimanded the accused and advised to take back the complainant. After that again the accused took the complainant to their house but it was only for a short period. Again they resorted to demanding additional dowry of Rs.4,00,000/- and threatened that if she fails to fulfill their demands, they would perform second marriage to A.1. Ultimately they drove away her. On 02.09.2016, the accused came to her parents house and threatened that if she failed to pay Rs.4,00,000/- to them, they would perform second marriage to A.1. Hence the complaint.

- 3) Investigation is reported to be pending.
- 4) Denying the charges learned counsel for petitioner submitted that the accused never ill-treated the complainant and in fact the complainant and her mother suppressed the factum of complainant suffering with heart ailment and performed the marriage. Even then the accused did not raise any issue. Learned counsel stoutly refuted the allegation that A1 gave some medicine and got the pregnancy of the complainant terminated. He would submit that in fact the complainant and her mother executed an agreement dated 19.05.2016 before the elders admitting that they performed the marriage of the complainant without

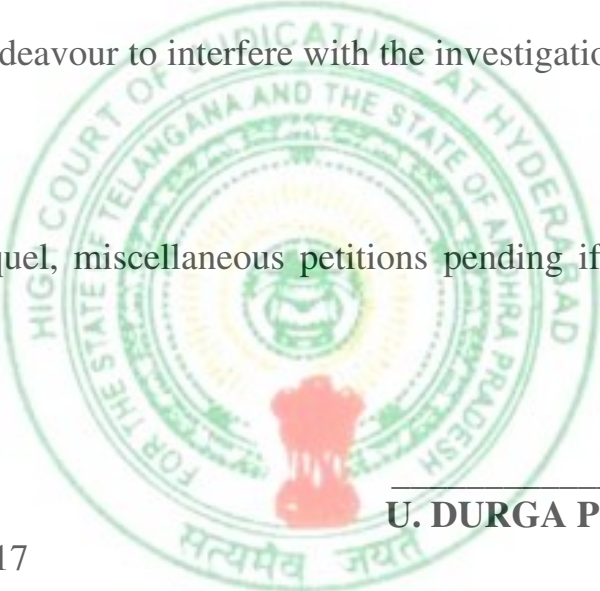
informing that the complainant was suffering with heart ailment. They further admitted that they did not give any gold or other paraphernalia at the time of marriage. They also admitted that the accused have presented 14 tolas of gold to complainant. Learned counsel would submit that the complainant herself left the society of A.1 and so A1 filed O.P.No.64 of 2016 on the file of Senior Civil Judge, Mahabubabad for restitution of conjugal rights. Having received the summons, the complainant filed a false complaint as a counterblast. He thus prayed to grant bail.

5) A perusal of the FIR and 161 Cr.P.C statements of the witnesses no doubt would speak as if the accused harassed the complainant and drove her away on demand of additional dowry. The record also reveal as if A1 administered some medicine and thereby the pregnancy of the complainant was terminated. Be that it may, the agreement dated 19.05.2016 filed by learned counsel for petitioner/A.1 would show the complainant and her mother made some admissions which militate against the complaint allegations. Thus the truth or otherwise of the complaint allegations on one side and the allegations in the O.P as well as the agreement dated 19.05.2016 on the other, have to be decided only after a full-fledged trial. As the matter stands, the C.D file shows, so far 6 witnesses were examined which include complainant and her neighbors. The petitioner/A.1 is said to be an Assistant Eye Specialist. Having regard to the stage of the investigation and avocation of the petitioner/A.1, bail is granted.

6) Accordingly, this Criminal Petition is allowed and the petitioner/A.1 is directed to surrender before the Judicial Magistrate of First Class, Kodad on or before 13.06.2017 and on such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties each for like sum to the satisfaction of learned Magistrate. On his release, the petitioner is directed to appear before SHO, Kodad PS on every Sunday, until charge sheet is filed. He is further directed to cooperate with the investigating agency for smooth completion of investigation and he shall not make an endeavour to interfere with the investigation or tamper with the evidence.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

Date: 06.06.2017  
scs

**U. DURGA PRASAD RAO, J**