

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9085 OF 2012

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.147 of 2008 on the file of the Judicial First Class Magistrate, Narsapuram, West Godavari District, registered for the offences punishable under Sections 498-A of Indian Penal Code (for short "I.P.C.") and under Sections 3, 4 and 6 of the Dowry Prohibition Act (for short "D.P.Act")

Respondent No.2 – defacto complainant lodged a complaint with the police alleging that she was subjected to cruelty by her husband and his relations for her failure to meet the illegal demand for additional dowry and that her parents paid Rs.50,000/- at the time of marriage as dowry besides meeting the expenses for other Lanchanams. Later, on 19.08.2003 accused No.1 demanded additional dowry of Rs.1,00,000/- and the defacto complainant expressed her inability to meet the demand, on that accused No.1 beat her mercilessly and necked her out from the house. Police registered the said complaint and after investigation filed the charge sheet before the Court, which is numbered as C.C.No.192 of 2006. After full-fledged trial, accused No.1 herein was found not guilty and acquitted for the offence. The defacto complainant filed a private complaint on the same allegations; filing of such private complaint when the accused No.1 was found not guilty and acquitted in C.C.No.192 of 2006 for the offence punishable under Section 498-A of I.P.C. and Sections 4 and 5 of Dowry Prohibition Act, which attained finality, is an abuse of process of Court. Therefore, absolutely no ground to proceed against the petitioners and prayed to quash the proceedings.

Sri G.Rama Gopal, learned counsel for the petitioners, while reiterating the grounds urged in the petition drawn the attention of this Court to the judgment rendered in C.C.No.192 of 2006 and findings recorded therein. On the strength of the acquittal recorded in the said C.C.No.192 of 2006, it is contended that filing of private complaint during the pendency of C.C.No.192 of 2006 (the said C.C. was disposed of subsequent to filing private complaint), is an abuse process of Court and requested to quash the proceedings.

Sri D.S.V.V.S.V. Prasad, learned counsel for the respondent No.2, fairly conceded about the acquittal of accused No.1 in C.C.No.192 of 2006 by the Additional Judicial First Class Magistrate, Narsapur, but contended that the other accused also subjected the defacto complainant to cruelty.

In fact, the complaint was lodged against all the petitioners with the police, but after due investigation police could collect evidence against the petitioner No.1/accused No.1 alone and filed the charge sheet before the Court while disbelieving the allegations made against other accused and the said Chare sheet was numbered as C.C.No.192 of 2006 and after full-fledged trial, the petitioner was found not guilty, who is prime accused in the present case.

Therefore, filing of private complaint during pendency of C.C.No.192 of 2006 on the basis of same allegations is nothing but abuse of process of the Court.

This Court can exercise inherent power under Section 482 of Cr.P.C. to make orders as may be necessary to give effect to any order under Cr.P.C. or to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

Here, filing of private complaint during pendency of C.C.No.192 of 2006 and more particularly when the petitioner/accused No.1 was found not guilty for the same offence is nothing but abuse of process of the Court.

The Apex Court in “**State of Haryana v. Bhajan Lal**”¹ laid down seven guidelines. According to guideline No.1 where the allegations made in the first information report or the complaint, even if they are taken on their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused, the Court can quash the proceedings by exercising jurisdiction under Section 482 of Cr.P.C.

Further more, when the petitioner No.1 was acquitted for the same offences, the question of prosecuting private complaint based on same allegations is barred under Section 300 of Cr.P.C. On this ground also the proceedings are liable to be quashed.

In view of my foregoing discussion, I find that filing of private complaint is an abuse of process of Court and the same is liable to be quashed.

In the result, the petition is allowed and the proceedings in C.C.No.147 of 2008 on the file of the Judicial First Class Magistrate, Narsapuram, West Godavari District are hereby quashed.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

07.02.2017
Ksp

¹ 1992 Supp. (1) SCC 335