

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.749 OF 2014

ORDER:

The revision petitioners 1 and 2 are A.4 and A.5 among the 5 accused in C.C.No.245 of 2012 on the file of the Judicial Magistrate of First Class, Rayadurg, which is outcome of Cr.No.161 of 2012 of Rayadurg Police Station for the offence under Sections 498-A IPC and u/ Sec.3 and 4 of the Dowry Prohibition Act, 1961, based on the report of the revision 2nd respondent/ defacto-complainant-the victim. The police after investigation filed final report in the form of chargesheet that was taken cognizance for the offences supra and u/sec.506 IPC by the learned Magistrate against all the accused and after supply of copies and in the course of hearing before charges from the application filed by the accused for discharge u/ sec.239CrPC (Cr.M.P.No.1669 of 2013), with averments of A.1 resided with defacto-complainant and he never harassed her much less for additional dowry and it is only a false accusation not only by roping him but also A.2 to A.5, never even resided under one roof with them. The discharge petition was opposed by the prosecution saying the face value of the material of the prosecution case from the investigation, makes out a case that was rightly taken cognizance and suffice for framing charges therefrom and there are no grounds to discharge any of them.

2.It is after hearing in CrI.M.P.No.1669 of 2013, the trial Court passed the impugned dismissal order dated 19.03.2014, against which the present revision is filed.

3. The contentions in the grounds of revision vis-à-vis the oral submissions are that the learned Magistrate ought to have seen that there is no prima facie accusation against the petitioners/ A. 4 and 5 in particular and against all in general for none of the penal consequences of any of the sections that are applicable against them and except casual reference of names of the petitioners/ A.4 and A.5- sister and brother-in-law of the defacto-complainant, there is no worth allegation saying any of their involvement either in FIR or by the statements covered by the investigation material in filing chargesheet to take cognizance and the trial Court should have allowed the application and discharged them, hence to set aside the impugned dismissal order by allowing the revision by discharging them from the accusation.

4. Whereas, the learned counsel for the defacto-complainant-R.2 to the revision supported the impugned dismissal order saying there is a prima facie accusation from the investigation material even against the petitioners/ A.4 and A.5 and the impugned order holds good and for this Court while sitting in revision, there is nothing to interfere, Hence to dismiss the revision. The learned Public Prosecutor representing the State also submitted the same.

5. Heard both sides with reference to the contentions referred supra and perused the material on record.

6. The report of the defacto-complainant, dated Nil-, received by the Station House Officer, Rayadurg on 28.06.2012 at 2 PM reads that her marriage with A.1 taken place at market yard Rayadurg of Anantapur district on 13.12.2004 as per the Muslim law and custom. At the time of marriage, her father given to A.1 three lakhs, Bajaz Pulsar Bike and met the marriage expenses of Rs.5 lakhs and after marriage, she joined her husband at the in-laws house and for sometime she was treated with love and affection and later she was subjected to harassment physically and mentally for additional dowry. At the time of marriage talks, it was informed that A.1 is an Electrical Engineer and he requires additional qualification and for that purpose he needs money and it is A.2, brother of A.1 so pretended and 6 months after marriage she came to know the said fact as untrue and when she questioned the same the accused persons abused her in filthy language and her husband and mother-in-law harassed her mentally and even bet her many a time and she informed her situation to her parents however she was convinced to stay and even the accused were advised to treat her well but there was no change even after meeting demands of additional dowry. A.1 is with no work and round the clock, he was harassing and ill-treating her by staying in house by raising pretty issues and particularly at the instance of his mother and she was not even provided food properly and they received additional amounts for the so called business purpose of her husband but as he was a spendthrift, spent for his vices and coming home late nights in intoxication state and beating her and

made her to sleep outside even, at the encouragement of his mother and brother. At her 3rd month pregnancy, in April 2012, he was sent to Payadurg and her husband dropped her at her parents house and went away and even her father went to her in-laws, he was abused and her father approached to caste elders on 15.05.2012 like K.S Shareef and there was a panchayat where they undertook to treat her well and take her back however with no lapse of time, on 19.05.2005 a legal notice from Bellary of Karnataka state was issued to her by her husband with false allegations for which she sent reply notice and she received another notice on 11.06.2012 and cause sent another reply dated 23.06.2012 and before receiving said reply her in-laws family came to her parents house and expressed remorse and taken her on 24.06.2012 to the matrimonial home however there is no change in their attitude and ill-treatment even later from the day one of taking her to the marital house, they even threatened to kill her even knowing she is carrying including the stillborn child and on 27.06.2012 within three days of her joining, they taken her back to her parents house in a jeep by 10 P.M. and left her to do away if she again attempts to join her husband and even they did not care to hear her parents or the neighbours and left and thereby she presented a complaint before police for action.

7. Among the A.1 to A.5, the A.1 is her husband, A.2 is her husband's elder brother, A.3 is their mother, A.4 is wife of A.2 and A.5 is younger brother of A.1 and A.2. A.5 is a student at Bellary.

8. The police from said report and after recording the statements during investigation of the defacto-complainant and the neighbors to the house of accused at Rayadurg, Atmakur street, filed the final report. In the report referred supra of the defacto-complainant, there are no specific allegations so far as the A.4 and A.5 concerned but for against the A.1 and A.3. From the perusal of the police investigation and chargesheet contents, though it is shown all are residing at Molkalmuru town of Chitradurga District of Karnataka state but for if at all any abuse at her parents house by dropping her when questioned mainly against A.1 to A.3 thereby leave about the jurisdictional aspects against the A.1 to A.3 for any decision in trial. So far as the A.4 and A.5 concerned, there is no any specific overt act of they came to Rayadurg and ill-treated much less with any specific overt acts of they ill-treated at Molkalmuru, the deacto-complainant. Thereby the dismissal of the discharge application so far as against the petitioners A.4 and A.5 concerned is unsustainable.

9. Accordingly and in the result, the revision is allowed by setting aside the dismissal order of the lower Court dated 19.03.2014 in Cr.M.P.No.1669 of 2013 and by discharging the A.4 and A.5-the revision petitioners herein from the accusation.

Miscellaneous petitions if any pending in this revision, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.06.2017
Vvr.