

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.7863 of 2010

ORDER:

The petitioners are accused Nos.2 to 5 in C.C.No.186 of 2008 pending on the file of Judicial Magistrate of First Class, Aluru of Kurnool District, taken cognizance for the offences punishable under Section 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act, outcome of the report of the 2nd respondent-defacto complainant, Smt. Shilpa wife of A.1. The quash petitioners are A2 to A5, no other than the parents in law, husband's brother and the other one is advocate not even shown anywhere related to the husband of the defacto complainant. Among 4 quash petitioners A2 to A5 supra, A.3-father in law of the defacto complainant died and the case against him is abated.

The grounds urged in the quash petition are that the registration of crime and taking of cognizance from the police final report covered by the investigation is totally unsustainable with no any specific accusation much less with any substance including to rope the A5, a stranger and practicing advocate not even related to the husband of the complainant and thereby the proceedings are liable to be quashed. It is also contented that A.4 is staying at Hyderabad Institute of Police and not even at Adoni of Kurnool District where A2 & A3, his parents are residing and he is also falsely roped so also the other petitioners in order to harass by the complainant with vengeance and not any bonafide prosecution. The defacto complainant did not turn up despite notice.

Heard the learned counsel for the petitioners reiterated the above contentions and the learned Public Prosecutor representing

the 1st respondent-State and perused the police final report with part II statements and the FIR.

In fact during the crime stage, there was a counselling effort made and it shows dated 01.04.2007, the defacto complainant and A.1 her husband appeared before the counsellor and even counsellors elderly tried to convince both altercated and did not head saying they could go and decide in Court their grievances respectively. Leave it of no much relevancy herein of the vain effort, but for shows adamancy from what is mentioned in the report of the counsellors. The very FIR report dated 06.03.2008 and the statement of the defacto complainant-LW.1 during investigation speaks after the marriage of the defacto complainant with A.1 dated 25.02.2007 with dowry and other presentations arranged one, after she joined her husband, her husband, mother in law-A.2 by name Susheela, father in law-A.3 Nagaraju since died and her husband's brother-A.4 Gadhilingappa and distinct relative of her father in law by name Pathikonda Mallikarjuna whereas A.5 is M. Mallikarjuna, Advocate, for the past one year harassing physically and mentally and her mother in law sent her out by preventing her to lead marital life with her husband, hence to take action.

As referred supra, marriage was dated 25.02.2007, report was dated 06.03.2008, which is after one year 10 days and the averment is since more than one year they were harassing and there are no even any specific acts against any of the accused persons, but for from what is referred supra mainly her husband and her mother in law, if any, of mother in law necked her out. So far as the statement of the other witnesses shown in the charge

sheet as Lws.2 & 3 her parents and Lws.4 to 6 panchayatdars for reconciliation what all discloses from Lws.4 to 6 supra is she complained about their harassing and she was necked out by her husband and mother in law and they tried to convince for their amicable life, however they came to know of the demand for additional dowry of Rs.50,000/- and it is further stated A.1 and his parents in their presence bet her.

Having regard to the above, at best it makes out a case only against A.1 and his mother A.2 since A.3 died and nothing against A.4 & A.5.

Having regard to the above and in the result, the Criminal Petition is partly allowed by quashing the C.C.No.186 of 2008 proceedings so far as A.4 & A.5 who are the petitioners Nos.3 & 4 concerned and by dismissing the quash petition so far as 1st petitioner/A.2 to face trial along with A.1. The trial Court shall consider the possibility of any referring the matter to the Committee as per the latest two Judge Bench expression of the Apex Court dated 27.07.2017 in CrI.A.1265 of 2017 (SLP (Crl.) No.2013 of 2017 in **Rajesh Sharma & Others Vs. State of U.P. & Another**).

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.10.2017
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