

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.11203 of 2011

ORDER:

Heard the learned counsel for the petitioners. No representation on behalf of the 2nd respondent in spite of service of notice.

The petitioners, who are accused Nos.4 and 5, filed the present criminal petition to quash the proceedings initiated against them in C.C.No.139 of 2011 on the file of the XIV Metropolitan Magistrate, L.B. Nagar, Cyberabad.

Originally, the 2nd respondent herein filed a complaint on 12.12.2010 against the petitioners herein and three others for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. It is her specific case that her marriage with the 1st accused was performed on 03.12.2008 according to the rites and customs prevalent in their community. At the time of marriage, her parents gave Rs.5 lakhs cash and 21 tulas of gold ornaments as dowry. Apart from that Rs.25,000/- was given to the 1st petitioner herein as Aadapaduchu Katnam. After marriage, the 2nd respondent went to her in-laws house and from there she went to London where the 1st accused was staying. The 1st accused on the instigation of his parents used to harass the 2nd respondent for additional dowry of Rs.10 lakhs. The 1st accused also used to beat her on many occasions when the 2nd respondent was pregnant. Thereafter, she returned to India. It is her

specific case that out of wed lock she was blessed with a son in October, 2009. After giving birth to a male child the attitude of the 1st accused was that the 2nd respondent has become stout and he does not like her. When the 2nd respondent along with her parents and elders persuaded the 1st accused and her in-laws, they never heeded to her request resulting in filing of the complaint against the petitioners herein and three others.

After filing of the complaint, the same was registered as FIR.No.150 of 2010 for the offence under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. After investigation, a charge sheet was filed, whereunder it is mentioned that the 2nd respondent was harassed by accused Nos.1 to 3 with specific allegations. Aggrieved by the same, the present petition is filed.

As far as accused No.4, who is the 1st petitioner herein, is concerned, except an omnibus allegation that the 2nd respondent should work as a maid servant in the house, there is no other allegation. As far as the 2nd petitioner herein, who is accused No.5, is concerned, the only allegation made against him is that along with his parents he asked the 2nd respondent to go to her parents' house.

It is the specific case of the petitioners that they have not committed any offence, much less, the offence as alleged and the allegations made in the charge sheet are absolutely not correct. It is also contended by the counsel for the

petitioners that the petitioners are living at different places and are not concerned with the 1st accused as well as his parents. In support of his contentions, the counsel for the petitioners has relied on the judgment of the Supreme Court in **Preeti Gupta and another v. State of Jharkhan and another**¹. In fact, not only in the complaint, but also in the charge sheet no specific allegations are made and no overt acts are attributed to the petitioners. Further, though notice was served, the 2nd respondent has not chosen to appear before the Court.

In **Preeti Gupta (supra)**, the Apex Court was pleased to consider all the implications and the consequences of the relatives of the husband therein, who are residing at different places, when they are involved and implicated in the crime. Dealing with the same, the Apex Court observed in the said judgment at paragraph Nos.32, 33, 34, 35, 37 and 38 as under:

“It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to

¹ (2010) 7 SCC 667

help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.

We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society."

Looking into the allegations made in the charge sheet and considering the contentions of the counsel for the

petitioners, this Court is of the view that no *prima facie* case is made out against the petitioners. Therefore, the proceedings initiated against the petitioners for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act in C.C.No.139 of 2011 on the file of XIV Metropolitan Magistrate, L.B. Nagar, Cyberabad, are hereby quashed.

The criminal petition is accordingly allowed.

Miscellaneous petitions, if any, shall stand closed.

Date: 10.10.2017.
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JUSTICE P. KESHA RAO

