

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6374 of 2017

ORDER:

The Criminal Petition is filed by the petitioner/A5 in CC No. 285 of 2017 on the file of IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, under Section 482 Cr.P.C. to quash the proceedings pending against her from the cognizance taken by the Magistrate supra in Cr.No.462 of 2015 for the offences punishable under Sections 498-A IPC & Sections 3 & 4 of Dowry Prohibition Act, on the report of the 2nd respondent, that was registered as Crime No. 716 of 2016 of PS Kukatpally but after investigation filed charge sheet on 5.4.2017 and the learned Magistrate taken cognizance there from supra.

2. Among the accused, A1 is the husband of defacto complainant, A2 and A3 are parents of A1, A4 is the brother of A1 and petitioner A5 is A1's brother's wife (Wife of A4). She is seeking to quash the proceedings. The grounds urged in the quash petition are that the marriage between the de-facto complainant and A1 was a love marriage inter caste from the acquaintance between them for being working in the same office earlier, and with great difficulty to the reluctance of A1's parents and family members, the marriage was performed and earlier she has given report at Lingampally Police Station for A1 refused to marry despite there was extra marital relation from what he promised to marry. It is the further averment in the quash petition that neither the marriage was attended to by any of the accused 2 to 5 or other family members nor they all lived together and A1 and de-facto complainant were residing separately unconnected to them with them with no any cordial relationship and they are all falsely roped in the case and there is no any accusation

so far as the petitioner/A5 is concerned, either from the report of the complaint including her statement during investigation or from statements of other witnesses. A2 to A4 earlier filed Criminal Petition No. 5478 of 2017 and their presence in the case was dispensed with by an order of this Court another bench dated 11.7.2017 from such a request without going into other merits as they sought. So far as the petitioner/ A5 is concerned, the A5 there from sought for quashing of the case proceedings.

3. Heard learned counsel for petitioner/A5 and also the learned Public Prosecutor representing the State and taken as heard the de-facto complainant to decide on merits as she did not turn up to the notice. Perused the material on record.

4. From the report and the statement of de-facto complainant besides the facts referred to supra, what is stated further is that A1 out of great difficulty on her giving a police report for initially refused to marry her, married her in the presence of her family members and neither parents nor other relatives of A1 were attended the marriage. What all stated further is that the parents of A1 (A2 and A3) after she filed Criminal Case against A1 at Lingampally Police Station offered to give Rs. 50,000/- and asked to forget A1 for he was not choosing to marry her and she refused the proposal to get rid of her. It is after marriage between A1 and complainant dated 30.10.2015 what she says is A1 was harassing physically and mentally with a demand for additional dowry and asking to sell the plot in the name of her parents and bring money besides gold and valuables and else to desert her and earlier also he left her company for she has given police report and he turned up. What she stated further is that ultimately on 19.12.2016 he with a pretext to go to office left home

and did not turn up and switched off his cell phone and she was suspecting therein role of A2 to A4 and hence to take action.

5. Even there from supra, there is no whisper against the petitioner/A5 of any role for the police to register a crime against her also much less to file a final report for the other witnesses including LW2 and LW3 did not whisper anything against her for the learned Magistrate to take cognizance for any offence against her. Thereby the continuation of proceedings against her as A5, without any specific allegation against her and any role of her for taking cognizance there from by the learned Magistrate without verification of the material is nothing but abuse of process.

6. Accordingly and in the result the Criminal Petition is allowed quashing the proceedings pending against the petitioner/A5 in CC No. 285 of 2017 on the file of IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad. Bail bonds if any stand cancelled.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.10.2017
KA