

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.8079 OF 2011

ORDER:

This Criminal petition is filed under Section 482 Cr.P.C seeking to quash the complaint in Crime No.161 of 2011 of Women Police Station, Saroornagar, Cyberabad.

2. The brief facts of the case are that the marriage of 2nd respondent was performed with 1st petitioner on 22.08.2010. It was an arranged marriage. Before the marriage, there were deliberations thoroughly with regard to the accidental burns received by 2nd respondent and on the advice of her husband and her in-laws, she was treated by Doctor in Yashoda Hospital, Malakpet, Hyderabad and her father met all the required medical expenditure. The 2nd respondent herein lodged the complaint before the Women Police Station, Saroornagar, Cyberabad making allegations against her husband, in-laws and sister-in-law with regard to demand of dowry. She stated in her complaint that her husband, parents-in-law and sister-in-law demanded her parents for registering the land in her name and in pursuance of their demands, her father gifted the property by way of registered gift settlement deed, which was executed on 13.08.2010 at SRO Shamshabad in her favour. Her parents presented gold jewellery of 54 tulas and 3 ½ kg of silver articles at the time of her marriage. Her parents also gave Adapadachu lanchanalu of Rs.1,00,000/- and clothes worth of Rs.10,000/- to her sister-in-law during her marriage and on demand Rs.1,00,000/- was given to her in-laws before the marriage towards marriage expenditure and cloths of Rs.30,000/- was given to bride groom at the time of marriage.

3. It is further stated in the complaint that the husband, parents-in-law and sister-in-law developed ill will for no reason and harassed her physically and mentally at the residence, and they have also abused her parents and her in filthy language and threatened with dire consequences. She also alleged that her sister-in-law also used to harass her. It is alleged in the complaint that her husband, parents in-law and her sister in-law on the active support of Shilendra—petitioner No.5/ accused No.5, harassed her. His active participation was there at the deliberation of engagement, marriage and even later.

4. On these allegations, police registered a case in Crime No.161 of 2010 dated 17.08.2011 against the accused Nos.1 to 5 for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 and Section 406 IPC.

5. Heard learned counsel for petitioners and learned Public Prosecutor representing the 1st respondent—State vis-à-vis learned counsel for respondent No.2.

6. Learned counsel for petitioners submits that there are no specific allegations against them and therefore sought for quashing the proceedings.

7. Learned counsel for respondent No.2 submits that there are specific allegations against the petitioners and it is a matter, in which investigation has to be conducted and therefore, the petitioners are not entitled for quashing of the proceedings in Crime No.161 of 2011.

8. Learned Public Prosecutor mainly contended that it is not a fit case to quash the proceedings against the petitioners as there were specific allegations against them.

9. The guidelines of the Apex Court in ***State of Haryana v. Bhajan Lal***¹ are as follows:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

¹ 1992 Supp. (1) SCC 335

In **Ravishankar Prasad**'s case, the Hon'ble Supreme Court, in paragraphs 45 and 48, observed as follows:

45. Quashing the proceedings at that stage was clearly an abuse of the process of the court. The court neither considered the entire material nor appreciated the legal position in proper perspective. The impugned judgment is wholly unsustainable in law and is accordingly set aside. Unfortunately, because of unnecessary interference by the High Court under section 482 Cr.P.C. the trial of this case could not be completed and concluded.

48. In this view of the fact, in the interest of justice we direct that the trial be now completed as expeditiously as possible. The trial court is directed to conduct the trial on day to day basis and parties are directed to cooperate with the trial court. The trial court shall ensure that unnecessary adjournments be avoided and trial be concluded as expeditiously as possible.

10. In the light of the facts and circumstances of the case and in view of the allegations narrated in the petition, this is not a fit case where proceedings can be quashed. Keeping in view of the decision of the Hon'ble Supreme Court in **CBI v. A. Ravishankar Prasad**² referred to a leading case in **Bhajan Lal (supra)**, this Criminal Petition is dismissed with a direction to the police to follow the guidelines of the Apex Court in **Arnesh Kumar vs State of Bihar**³ during investigation.

Miscellaneous Petitions, pending if any, in this Petition shall stand closed.

GUDISEVA SHYAM PRASAD, J

24.10.2017.
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² (2009) 6 SCC 351

³ AIR 2014 SC 2756

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Date:24.10.2017

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