

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.9909 of 2013

ORDER:

This petition under Section 482 of Cr.P.C. is filed to quash the proceedings against the petitioners/accused 2 to 4 in C.C.No.232 of 2013 on the file of the Judicial Magistrate of First Class and Special Mobile Court, Guntur, Guntur District, for the offences punishable under Section 498-A of IPC and under Sections 3 and 4 of Dowry Prohibition Act (for short 'the Act').

The de-facto complainant, the second respondent herein, Smt. Thupakula Padma, lodged a complaint alleging that her marriage with Thupakula Anil Kumar was performed on 20.02.2008 at Indian Tobacco Association Kalyana Mandapam, in the presence of elders. At the time of marriage, her father paid Rs.40 lakhs of cash and presented 80 sovereigns of gold and 530 sq.yards of vacant site worth Rs.60,00,000/- to A.1 to A.3 in the presence of elders. After marriage, the de-facto complainant joined the company of A.1 at Narasaraopet and led marital life. Later, A.1 shifted his family to Flat No.2B, Mouri Homes Apartment, 7-Kolan, Ramachandrareddy Colony, Bachupalli, Hyderabad, as he is working as a Software Engineer at Satyam. A.1 and the de-facto complainant led happy marital life for six months. Thereafter her elder brother-in-law, Thupakula Sampath

Kumar, died due to collapse of wall. Since then, A.1 to A.4 started harassment on pretext that their son died after her arrival as she is an unfortunate person. Later, in the year 2009, the de-facto complainant was blessed with a male child, named as Chakshu Kartikeya Sampath Kumar. The father of the de-facto complainant gained income in the business and on coming to know about it, the accused started harassing her demanding to bring Rs.60 lakhs by sale of 530 sq.yards of site which was given at the time of her marriage and additional amount of Rs.20 lakhs etc. Thus, the accused allegedly subjected the de-facto complainant to cruelty and thereby, lodged a complaint and on the strength of the same, police registered a crime and issued FIR and after completion of investigation, filed charge sheet before the Court and the same was numbered as C.C.No.232 of 2013.

The present petition is filed mostly on three grounds. The first ground is that the de-facto complainant/second respondent earlier, lodged a complaint before the police and after receipt of notices in O.P.No.955 of 2012 pending on the file of the Judge, Family Court, City Civil Court, Hyderabad, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, she changed her version and lodged another complaint. Thus, the second respondent filed complaint by abusing the process of the Court

and thereby, sought quashment of the proceedings in C.C.No.232 of 2013 pending on the file of the Judicial Magistrate of First Class and Special Mobile Court, Guntur.

During hearing, Sri Sricharan Telaprolu, learned counsel for the petitioners, while reiterating the contentions raised in the petition, has drawn the attention of this Court to the earlier complaint lodged by the second respondent with the police and the discrepancy between the present and earlier complaints, so also, the proceedings pending before the learned Judge, Family Court, City Civil Court, Hyderabad, in O.P.No.955 of 2012 under Section 13(1)(ia) of the Hindu Marriage Act, and on the strength of the discrepancy between the present complaint and the earlier complaint, the learned counsel contended that the second respondent by changing her version from time to time to suit the situation, lodged complaints one after the other and it would amount to abuse of process of the Court and therefore, the proceedings in C.C.No.232 of 2013 cannot be continued and thereby, prayed to quash the proceedings.

Mr. Challa Srinivas Reddy, learned counsel appearing for the second respondent did not advance argument despite listing the matter several times and hence, recorded arguments on behalf of the second respondent as -nil-.

Learned Public Prosecutor for the State of Andhra Pradesh opposed the petition on the ground that there may be a discrepancy in the allegations made in the two complaints but that itself is not a ground to quash the proceedings in C.C.No.232 of 2013. However, the consistent allegations regarding receipt of dowry etc., are suffice to connect the accused to the offences punishable under Sections 3 and 4 of the Act and thereby, prayed to dismiss the petition.

The main grievance of the petitioners is that the second respondent earlier, lodged complaint with the police, and a reading of a copy of it shows that at the time of marriage, her parents paid Rs.40,00,000/- as dowry, 80 sovereigns of gold and 530 sq.yards of vacant site to the accused and presented household articles worth Rs.3,00,000/- and the accused subjected her to cruelty for her failure to sell the vacant site of 530 sq.yards and to pay the sale consideration, and that she was subjected to both physical and mental cruelty for her failure to meet their illegal demand, but in a latter complaint, the second respondent changed her version slightly and made specific allegations stating that the accused demanded her to bring additional dowry of Rs.20,00,000/- apart from sale of house plot of an extent of 530 sq.yards worth Rs.60,00,000/- which was given to her at the time of marriage. The only development after the first complaint is,

demand of Rs.20 lakhs as additional dowry. In any view of the matter, the allegation with regard to the payment of Rs.40,00,000/- as dowry, presentation of 80 sovereigns of gold and 530 sq.yards of site plot is consistent except there is a variation with regard to the demand of additional dowry. In the earlier complaint, there was no allegation regarding demand of additional dowry of Rs.20,00,000/- but it is a subsequent development to the first complaint. C.C.No.232 of 2013 was filed for the offences punishable under Sections 3 and 4 of the Act and Section 498-A of IPC. Receiving Rs.40 lakhs cash and gold ornaments weighing about 80 sovereigns and house site of 530 sq.yards by the petitioners would fall within the definition of 'dowry' under Section 2 of the Act. Demand and payment of dowry at or after the marriage is an offence under Section 3 of the Act. Therefore, the allegations regarding the offence punishable under Section 3 of the Act both in the first and second complaints are consistent. Therefore, on the ground that there is a discrepancy in the first and second complaints, the proceedings in C.C.No.232 of 2013 for the offences punishable under Section 3 and 4 of the Act cannot be quashed.

The discrepancy pointed out by the learned counsel for the petitioners is that the demand of Rs.20 lakhs as additional dowry is absent in the first complaint. Therefore, it can be said that it is

a subsequent development. The statements recorded by the police during investigation are not brought on record before this Court to find out the truth in the allegations mentioned either in the first complaint or in the second complaint because the entire investigation was completed and charge sheet was filed and that the proceedings in the Calendar Case alone were challenged before this Court. The complaint lodged before the police is only intimation about occurrence of cognizable offence to set the criminal law into motion and it is not an encyclopedia of facts. Therefore, absence of an allegation regarding demand of Rs.20 lakhs as additional dowry would not vitiate the entire case more particularly, when investigation was completed and charge sheet was filed. Therefore, on this ground, the proceedings in C.C.No.232 of 2016 cannot be quashed.

The other contention is that A.1 filed O.P.No.955 of 2012 before the learned Judge, Family Court, City Civil Court, Hyderabad, on 22.06.2012, seeking divorce by dissolving the marriage between him and the second respondent, whereas the complaint was lodged on 01.08.2012. There is a gap of two months between lodging of complaint before the police and filing of marriage O.P. before the learned Judge, Family Court, but payment of 40 lakhs as dowry besides presentation of 80 sovereigns of gold ornaments and 530 sq.yards of vacant site is

consistent and similarly, demand to sell 530 sq.yards of house site is also consistent both in the first and second complaints, and that mere delay in lodging complaint by itself would not vitiate the entire proceedings and it is not a ground to quash the proceedings.

The last ground urged before this Court is that a complaint was lodged by A.1 against the second respondent on 04.04.2012 marking a copy to the Inspector of Police, DSP etc., and others alleging that the second respondent and her family members were threatening to kill him and on one occasion, she made an attempt with a kitchen knife and threatened to foist false cases against him, but the police did not take any action on the complaint. But, lodging complaint against one another is of no consequence, when the police did not register any crime and issued FIR. Therefore, this is also not a ground to quash the proceedings in C.C.No.232 of 2013. However, it is left open to the petitioners to raise all the pleas during trial in C.C.No.232 of 2013.

The jurisdiction of this Court under Section 482 Cr.P.C. can be exercised in extraordinary circumstances only to give effect to the orders passed by the Court or to prevent the abuse of process of the Court and to meet the ends of justice. The Apex Court laid down certain guidelines in **State of Haryana v.**

Bhajanlal¹ and according to the first guideline, if the allegations made in the complaint would not attract an offence, *prima facie*, the Court can exercise its inherent jurisdiction and quash the criminal proceedings.

In the present case, the allegations mentioned in the complaint and the charge sheet would *prima facie* establish the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the Act and at best, at the stage of considering the complaint, in a petition filed under Section 482 Cr.P.C., the Court has to consider the allegations made in the charge sheet but not the defence set up by the petitioners. As the power of the Court is confined to such extent, this Court need not look into the defence set up by the petitioners. Hence, I find no ground to exercise inherent jurisdiction conferred on this Court by Section 482 Cr.P.C. Consequently, this petition is liable to be dismissed.

In the result, the Criminal Petition is dismissed.

Consequently, pending Miscellaneous Petitions, if any, shall stand dismissed.

M.SATYANARAYANA MURTHY, J

8th MARCH, 2017.

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¹ 1992 SCC (Crl) 426