HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.5053 OF 2011

ORDER

This criminal petition is filed to quash the proceedings in C.C.No.157 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam for the offences under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act.

The petitioners 1 and 2 are accused Nos.2 and 3.

The brief facts of the case are that the 2nd respondent lodged a complaint stating that her marriage was performed with A1 in the month of December, 2008. At the time of marriage, her parents gave a cheque of Rs.4 lakhs and cash of Rs.2 lakhs towards marriage expenses and Rs.50,000/- each to her sister-in-laws, three tulas of gold ornaments to A1 and other sare saman worth Rs.2 lakhs on the demand of the accused. After the marriage, 2nd respondent joined A1 at Hyderabad as he is working there and led marital life with him. Her sisters-in-law, Padma and Kalpana, were also residing at Hyderabad separately with their families. Accused harassed 2nd respondent as she brought less dowry and also harassed to bring additional dowry from her parents. A1 used to come home in a drunken condition and harassed the 2nd respondent mentally and physically. It is further alleged that A2 harassed 2nd respondent and misbehaved with her indecently and he had harassed her sexually. A3 had tried to do away the life of the 2nd respondent. One week after the marriage, 2nd respondent came to

know that A1 was suffering with Tuberculosis and her in-laws concealed the same and performed their marriage. When respondent No.2 became pregnant, she developed fibroids and later she was blessed with a male child and the child was also attracted with Tuberculosis. Thereafter, in the month of June, 2010, A1 dropped 2nd respondent along with the child at her parents' house at Visakhapatnam and went to Hyderabad. Since then accused Nos.1 to 3 have not brought her back to the matrimonial home. On these allegations, the 2nd respondent lodged a complaint before the police and the police, III Town Police Station, Visakhapatnam registered a case in crime No.644 of 2010 for the offences under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act and investigated the case and filed the charge-sheet before the I Additional Chief Metropolitan Magistrate, Visakhapatnam. Aggrieved by the same, this petition is filed to quash the proceedings cited supra.

Heard arguments of Sri V.Praveen Kumar, learned counsel for the petitioners, Sri G.Ramgopal, learned counsel for 2nd respondent and learned Public Prosecutor for the State.

Learned counsel for the petitioners submits that the ingredients of Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act were not present in the complaint and there is no material against A2 and A3 for taking cognizance of offence against them by the police. It is further submitted that there are no specific overt acts attributed to A2 and A3 and the allegations made against

them are false and therefore, they are entitled for quashing of the proceedings.

Learned Public Prosecutor submits that there are ingredients of Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act in the complaint. The police have investigated the case and filed the charge-sheet against A2 and A3 and therefore, there are no valid grounds to quash the proceedings in this case.

Learned counsel for the 2nd respondent submits that there are specific overt acts against A2 that he has misbehaved with 2nd respondent and sexually harassed her. He further submits that there are specific allegations against A3 that she tried to do away the life of the 2nd respondent several times. The police have investigated the matter and filed the charge-sheet against the accused, showing several persons as list of witnesses. In 161 Cr.P.C. statements, the witnesses have made allegations against A2 and A3. It is further submitted that there are no grounds to quash the proceedings against A2 and A3 and prayed to dismiss the petition.

At the outset, this is a petition filed under Section 482 Cr.P.C. by the petitioners-A2 and A3 for quashing the proceedings in C.C.No.157 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam. A2 and A3 were alleged to have committed offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The 2nd respondent is the daughter-in-law of A2 and A3. She filed a complaint making

specific allegations against them, that A2 misbehaved with her and sexually harassed her and that A3 had tried to do away with her life several times. On lodging the complaint, the police have investigated the case and recorded the statements of several witnesses, and filed the charge-sheet against the accused in this case. No doubt, in the charge-sheet, as there is no *prima facie* case against A4 and A5-sisters-in-law of the *de facto* complainant, their names were deleted from the charge-sheet.

Having regard to the facts and circumstances of the case, as there are specific allegations against the petitioners, A2 and A3, I do not see any valid grounds to quash the proceedings against them.

Learned counsel for the petitioners submitted that A2 and A3 are senior citizens and requested that their presence may be dispensed with during trial before the Court below.

In view the same, the petitioners are given liberty to move a petition before the trial Court for dispensing with their presence and the trial Court may consider the same and pass appropriate orders.

Accordingly, the Criminal Petition is dismissed. Since the crime is of the year, 2010, the trial Court is directed to dispose of C.C.No.157 of 2011 within three months from the date of receipt of a copy of this order.

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

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GUDI SEVA SHYAM PRASAD,J

Date : 03.10.2017
ssp