

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.12041 of 2010

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioners in C.C.No.39 of 2010 on the file of Judicial Magistrate of First Class, Parkal, Warangal District.

Petitioners are A5 to A10. A5 and A9 are the brothers, A6 and A7 are the married sisters, A8 is the unmarried sister and A9 and A10 are the brothers-in-law of Ande Sampath-A1 (husband of 1st respondent).

The brief facts of the prosecution case are that, the 1st respondent married Ande Sampath-A1 on 10.06.2006 and at the time of marriage, an amount of Rs.1,50,000/- cash, 10 tulas of gold, motorcycle, T.V. and other household articles were presented to the family of accused on their demand. After the marriage, the 1st respondent and A1 led marital life by setting up a separate family at Secunderabad and they were blessed with a female child. It is alleged that A1 started harassing 1st respondent for additional dowry and used to beat her on the ground that she gave birth to a female child. It is further alleged that A2 to A10, who are the brothers, sisters and brothers-in-law of A1 used to visit the house of A1 and harassed her for additional dowry. In the month of August, 2008, the 1st respondent gave a complaint in Bhoopalpalli Police Station for the harassment meted out by

the accused and requested for counseling. In spite of counseling, there is no change in the attitude of A1 and he continued harassment for additional dowry on the instigation of A2 to A10. On 15.04.2009, A1 tried to kill the 1st respondent by hanging her at their house situated at Secunderabad. As such, 1st respondent went to the police station along with her parents and lodged a report against the accused. Basing on the said complaint, the police registered a case in Crime No.145 of 2009 for the offences under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act and after investigation, they have filed charge sheet against all the accused.

Heard learned counsel for the petitioners. Though notice was served to 1st respondent, none appeared on her behalf.

Learned counsel for the petitioners submitted that the allegations made against the petitioners are omnibus in nature. There are no specific allegations against the petitioners to rope them for the offences under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The allegations against the petitioners are that they instigated A1 for demand of additional dowry and that is why A1 had harassed the 1st respondent. Learned counsel for the petitioners placed reliance on the decisions of Apex Court in ***Pritam Ashok Sadaphule and others v. State of***

Maharashtra and another¹ and ***Geeta Mehrotra and another v. State of Uttar Pradesh and another***² and submitted that when the allegations leveled against the accused are vague and omnibus and they could not be seriously contested, the proceedings against them can be quashed.

In ***Pritam Ashok Sadaphule***'s case, learned counsel for the petitioners referred to para 16 and submitted that when there are no specific allegations against the accused, those who are residing separately from A1 and 1st respondent and when the allegations are that they have instigated A1 to harass 1st respondent for additional dowry, such allegations are to be considered as vague and omnibus in nature and they are entitled for quashing of the proceedings.

In ***Geeta Mehrotra***'s case, learned counsel for the petitioners referred to para 25 and submitted that if the FIR does not disclose specific allegations against the accused, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial.

At the outset, this is a petition filed for quashing of proceedings against the brothers, married sisters and brothers-in-law of A1. The allegations against the petitioners are that they instigated A1 for harassment for additional dowry. There are no specific allegations against the

¹ (2015)11 SCC 769

² (2012)10 SCC 741

petitioners except stating that they instigated A1 seeking additional dowry. It is argued by the learned counsel for the petitioners that respondent No.1 has set up separate family in Secunderabad leaving her matrimonial home at Karimnagar. When they are living separately, there is no possibility of the accused, who are married and living with their husbands to instigate A1 to harass the 1st respondent for additional dowry. It is also pertinent to note that learned counsel for the 1st respondent has not advanced arguments in this matter opposing this petition.

However, on consideration of the arguments of the learned counsel for the petitioners and placing reliance on the decisions referred above, wherein the Hon'ble Apex Court has laid down the law in respect of quashing of proceedings under Section 482 of Cr.P.C. under certain circumstances where the allegations against the petitioners are vague and omnibus in nature are directly applicable to the facts of the present case wherein the petitioners are alleged to have instigated A1 but nowhere it is stated as to what sort of instigation they have done for harassing the 1st respondent to get additional dowry. The 161 Cr.P.C. statement of 1st respondent is nothing but replica of complaint. The same allegations in the 161 Cr.P.C. statement of 1st respondent is reflected in 161 Cr.P.C. statements of other witnesses. All the statements of witnesses appeared to be stereotyped which are almost reflecting the allegations made in the complaint lodged by the

1st respondent. Therefore, it is a fit case where the proceedings against A1 to A6 can be quashed.

In ***Central Bureau of Investigation v. Shri Ravi Shankar Srivastava, IAS and another***³, some guidelines have given for quashing the F.I.R. No doubt, this case is little more advanced as the investigation has progress further in this case, but, however, the guidelines clearly applicable to this case where the allegations made in the FIR or 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 and 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. In the instant case, the allegations are vague and omnibus in nature. There are no specific overt acts attributed to each of the accused and specific instances of harassment meted out by them. Therefore, keeping in view of the ratio lay down by the Hon'ble Supreme Court in the above decisions, the proceedings against the accused are liable to be quashed.

Learned counsel for the petitioners submitted that petitioner No.5/A9 died on 02.03.2015 and he filed a death certificate to that effect.

³ (2006)7 SCC 188

In the result, the petition is allowed quashing the proceedings in C.C.No.39 of 2010 on the file of the Judicial Magistrate of First Class, Parkal, Waranal District against petitioner Nos.1 to 4 and 6. The case against petitioner No.5 is dismissed as abated.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDISEVA SHYAM PRASAD,J

Date : 13.10.2017
ssp

