

THE HON'BLE SRI JUSTICE P.KESHAHA RAO

CrI.P. No. 2687 of 2010 and CrI.R.C.No. 1131 of 2018

JUDGMENT:

Heard counsel for the petitioners as well as Public Prosecutor for the 2nd respondent.

2. The facts in the criminal petition as well as the present R.C., and the parties in both the cases are one and the same. By virtue of the orders passed by this Court on 03.09.2014, both the cases are clubbed and posted together. Therefore, both the matters are being disposed of by this common order.

3. The facts of the case are that, originally, the 1st respondent herein filed a private complaint before the II Additional Chief Metropolitan Magistrate against the petitioners herein for the offence under Sections 3 and 4 of the Dowry Prohibition Act. The said complaint was referred to police under Section 156(3) of Cr.P.C. After receipt of the said case, a crime was registered vide F.I.R.No. 126 of 2010 for the offences under Section 498-A IPC read with Sections 3 and 4 of the Dowry Prohibition Act. Aggrieved by the said registration of the crime, the petitioners have filed Criminal Petition No. 2687 of 2010 in this Court. Pending the criminal petition, they sought interim stay of all further proceedings, including their arrest. This Court, on 19.3.2010, was pleased to grant interim order. Subsequently, on 20.04.2010, the said order has been extended until further orders.

4. A perusal of the contents in the complaint would not indicate any allegation satisfying the basic ingredients of either Section 498-A IPC or Sections 3 and 4 of Dowry Prohibition Act. Be that as it may, inspite of granting of stay by this Court, it appears, the concerned police went ahead with the investigation and after completion of investigation, filed a final report on 25.12.2010, stating

that the case referred is a false one and requested the Court to close the file. Aggrieved by the said orders, the 1st respondent herein filed a protest petition vide C.F.No. 3582 of 2012 in Crime No. 126 of 2010. After hearing, the III Additional Chief Metropolitan Magistrate was pleased to allow the said petition on 29.06.2013, against which the Criminal R.C. is filed.

5. During the course of arguments, it is brought to the notice of the Court that the 1st petitioner filed a petition in F.C.O.P.No. 57 of 2009 for divorce against the 1st respondent, on the file of the Judge, Family Court at Khammam. By orders dated 22.07.2011, the marriage between the 1st petitioner and the 1st respondent was dissolved by decree of divorce. Against the same, the 1st respondent filed an appeal in F.C.A.No. 255 of 2011 in this Court. After hearing, this Court was pleased to dismiss the appeal by orders dated 13.04.2015.

6. A perusal of the orders passed by this Court in the aforesaid appeal would indicate that there is no basis for the 1st respondent to file a complaint under Section 498-A IPC., and the relevant paragraph of the said judgment is as under:

“10. From the above evidence and after hearing, the trial Court by the impugned order, particularly from Paragraph Nos. 18, 21, 24 and 29, observed that the respondent is guilty of matrimonial cruelty, though desertion not independently made out, and that she is guilty of loose life.”

7. Be that as it may, though notice was sought to be served on the 1st respondent through Court and Registered Post, the same was not fructified and substitute service was taken. In spite of the same, the 1st respondent has not chosen to appear and contest the matter.

8. The learned Public Prosecutor appearing for the 2nd respondent, fairly conceded that no basic ingredient satisfying the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act are made out.

9. In the circumstances, there is no prima facie case, and when, admittedly, the police have filed closure report referring the case as a false one, any continuation of further proceedings against the petitioners would amount to abuse of the process of the Court and no useful purpose would be served, more particularly, when the 1st respondent herself is not interested to appear and contest the matter. Further, during the pendency of these proceedings, the petition filed by the 1st petitioner for divorce, culminated in granting of divorce, by virtue of the orders passed by this Court in F.C.A.No. 255 of 2011.

10. In these circumstances, this Court feels that it is a fit case where the proceedings initiated against the petitioners vide Crime No. 126 of 2010 for the offences under Section 498-A IPC read with Sections 3 and 4 of the Dowry Prohibition Act are liable to be quashed, and accordingly, the same are hereby quashed. Consequently, the orders passed in C.F.No. 3582 of 2012 dated 29.06.2013 of the III Additional Chief Metropolitan Magistrate, Vijayawada are also set aside. Interim orders, if any, stand vacated.

11. Both the petitions are allowed. Miscellaneous petitions pending, if any, stand closed.

P.KESHAVA RAO, J

Date: 04.12.2017
DMG

