

THE HON'BLE DR JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4821 of 2016

ORDER:

Petitioner is A.1 in C.C.No.390 of 2015 on the file of XIV Metropolitan Magistrate, Cyberabad, at L.B. Nagar, taken cognizance for the offences punishable under Sections 498-A, 420, 406 and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act which is the outcome of the report of the second respondent/de facto complainant registered as Crime No.58 of 2015 by the Station House Officer, Saroornagar.

The factual background is, prior to the marriage of A.1-husband and de facto complainant-wife, A.1 played deception saying that he got crores of properties and that can be given to her if she is willing to marry him, but, after marriage, she noticed that A.1 was staying in a single bed room flat in Tirupati and a week after their marriage, the couple went to USA and in USA, A.1 harassed her physically and mentally with a demand for additional dowry and though she met the demands, by raising further demands, at the instance of other accused, A.1 harassed and ill-treated her and ultimately, in the 2nd week of March, 2015, A.1 necked her out from the house and thereby she came back to India and gave the police report on 02.04.2015.

The contentions of the learned counsel for the petitioner/A.1 are that the allegations of the de facto complainant show that the suffering took place in USA and there is no permission of the Central Government obtained in registering crime, conducting investigation and filing final report, and even taken all the allegations as true, no offence attracts against the petitioner as such taking cognizance of the offences supra against the petitioner is unsustainable and thereby, the proceedings are liable to be quashed.

The learned counsel for the petitioner reiterated the same in the course of hearing and saying mainly on there is no jurisdiction to the Court to take cognizance of the offences against the petitioner, whereas it is the submission of the learned counsel for the second respondent/de facto complainant so also by the learned Public Prosecutor representing the State that there is nothing to entertain the quash petition.

As per the charge sheet, there are 6 accused including the petitioner/A.1 and there are 7 witnesses cited out of whom the de facto complainant/second respondent is L.W.1/ victim, L.Ws.2 and 3 are the parents of L.W.1, L.Ws.4 and 5 are the circumstantial witnesses and L.Ws.6 and 7 are the Investigating Officers.

The statement of L.W.1 including the statements of her parents, L.Ws.2 and 3, recorded by the Investigating Officer during the course of investigation, disclosed that L.Ws.2 and 3 are residents of Uday Nagar Colony (P&T Colony), Saroornagar; L.W.1 completed M.S. and working in a private company of America and in February, 2013, A.2 – Raj Gopal Reddy and his wife, A.3 – K. Revathi, are the parents of A.1, and their two daughters A.4 and A.5, by names, Kavitha and Vidya, came to L.Ws.2 and 3 and stated that A.1 completed engineering in 2006 and working in America in a private company and told that they got properties and informed A.1 regarding marriage proposal, and L.Ws.2 and 3 informed that L.W.1 was also staying in America and they gave her bio-data, and A.1 liked her and A.2 and A.3 told that they got crores of properties in Chittoor, Tirupati and Hyderabad and later, A.1 met her in America and told the same of what the other accused to her parents of owning crores of properties and by liking the proposal therefrom, she left the final decision to her parents and all believed their version and the marriage proposal was accepted and at the instance of all the accused, the date of marriage was fixed as 08.08.2013 and the ceremony of writing wedding card was performed on 20.05.2013. They demanded 108 tulas of gold ornaments, 5 kgs of silver ornaments and 1 lakh towards clothes. That was meted out and

for the purpose of marriage, L.W.1 and A.1 came from America to Hyderabad and the marriage was solemnized at Pindi Pulla Reddy Function Hall, Byramalguda, Sagar Road, Ranga Reddy District and after marriage, they took them to their house at Tirupati and her parents and other relatives also came to Tirupati in vehicles and to their shock and surprise, they were in a single room house and rituals of post-marriage were performed in Hotel Bliss and the couple stayed for one week in India and that for Sreemantham of her sister-in-law, 100 tulas of gold presented to her by her parents was taken by the accused persons and later, the couple went to America where A.1 was beating her and at the instigation of other accused over phone calls from Hyderabad, A.1 was subjecting her to ill-treatment and threatening to kill and bury. Her parents came to America six months after her marriage and stayed with her brother. When they came to see her, her husband was behaving well. She did not inform all these incidents. The accused were demanding additional dowry with a threaten to kill otherwise, which is at the instance of the other accused persons, and having extracted huge amounts by ill-treatment and harassment, she was necked out of the house in the 2nd week of March, 2015.

Prima facie, there is an accusation in respect of the offence under Section 498-A IPC, there is no offence of cheating or breach of trust for nothing to show, even from the say of her, jewellery was taken from her to present to her sister-in-law and the Court got jurisdiction to entertain from several acts taken place in the in-laws house at Hyderabad including any instigation of A.1 at America to harass her by the phone calls of other accused persons.

Having regard to the above, the criminal petition is allowed in part by quashing the cognizance taken for the offences punishable under Sections 420, 406 and 506 IPC but for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. Needless to say, the trial Court can consider the case as per guidelines of the Apex Court in **Rajesh Sarma v. State of Uttar Pradesh**¹.

Pending miscellaneous applications, if any, shall also stand closed.

Dr. B. SIVA SANKARA RAO, J

11th OCTOBER, 2017.

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¹ 2017(2) ALT Crl. 393 (SC)