

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3935 of 2017

ORDER:

The present Criminal Petition is filed under Section 438 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to grant anticipatory bail in Crime No.79 of 2017 of III-Town P.S., Anantapuramu.

2. The petitioner, who is arraigned as accused No.1, alleged to have committed the offences punishable under Sections 498-A, 307, 506 of I.P.C. read with Section 34 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act, 1961 and Section 66(E) of the Information Technology Act, 2000.

3. Heard Sri R. Harish Kumar, the learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner pleaded innocence and false implication of the petitioner. Certain submissions made by the learned counsel would be dealt with later since it would be appropriate to refer to the complaint allegations to appreciate the submissions made by the learned Counsel and the learned Additional Public Prosecutor.

5. The *de facto* complainant is the wife of the petitioner. She lodged the complaint on 16.4.2017 and the Station House Officer, III Town-P.S., Anantapur, registered it on the same day, and, of course, received by the concerned Judicial Magistrate of First Class at 5.00 p.m. on 16.4.2017. Though, in normal course, reference to the dates is unnecessary, but, in the present case in view of the submissions made by the learned counsel, these dates since have some bearing on the request herein are referred to.

6. The allegations in the complaint would show that the marriage of the *de facto* complainant with the petitioner had taken place on 14.8.2014 and they got it registered. At the time of marriage, on demand said to have been made by the petitioner and his parents, a sum of Rs.5,00,000/- towards dowry, 50 tulas of gold and 2 kgs of silver articles were given to the petitioner. Thereafter, her husband on the premise that they had to go to honeymoon trip to Delhi, Kunu Manali, and Simla, demanded Rs.1,00,000/- and the same was also met by the parents of the *de facto* complainant. Immediately thereafter, the mother-in-law of the *de facto* complainant asked her to get all gold ornaments and silver articles for performing Satyanarayana Swamy Vratham on 16.8.2014, and kept the same in her custody except one Gold Chain, Mangalasutram Chain and two gold bangles.

7. A few days thereafter, they all started harassing her commenting that she brought inadequate dowry though her husband is

working in Tech Mahindra as Software Engineer and father-in-law is working as Deputy Tashildar and they possesses assets worth crores and thus subjecting her to ill-treatment. They detained her at their house in Uravakonda for about a month demanding to get additional dowry and her husband used to visit on occasions. The fourth accused, who is younger brother of her husband, maintained ugly conduct and attempting to have physical contact with her and when she informed her in-laws, instead of admonishing him they detained her in the room, threatening her that in case she reveals it to her husband they would see that she would spoil her marital life. When she informed the same to her father, he along with Ex-Corporator, Vijaya Bhaskar Reddy, and Rangachary, uncle of the *de facto* complainant came to Uravakonda and in the presence of her husband mediated, and as per the advice of the elders he agreed to set up family at Hyderabad. In December, 2014, he has brought her to Hyderabad and taken a flat in Allwyn Colony, Miyapur, Hyderabad. Since there were no minimum household articles, the *de facto* complainant informed to her father, who came and gave Rs.1,00,000/-, out of which her husband spent Rs.50,000/- towards furniture and the rest for his vices. She levels the allegation that her husband used to pay rent alone, and she used to borrow Rs.5,000/- to Rs.6,000/- every month from her parents for purchasing provisions and lead life without revealing it to anyone.

8. In February, 2014, on one night her husband came home in a drunken state and started harassing her physically without there being any reason and forgetting for a while that they were married recently and living as new bride and bridegroom and she refers that he used to bite on various parts of her person, behaving as a sadist, and unable to bear with pain when she used to shout, he threatened her to shut mouth and bear pain, and used to beat her indiscriminately. She also alleges that in the weekends her husband by getting his friends, consume alcohol and insult and belittle her in their presence. In the end of January and her husband has taken away the Gold Talibottu, two gold bangles by force and utilized the proceeds for his vices by spending the same and started demanding her to get additional dowry. When she was unable to bear the said torture, in March, 2015, she came back to her parents house at Anantapur and informed the parents how she has been meted harassment. A few days thereafter, mediation was held in the presence of her husband, her in-laws and her parents and in the presence of one D. Rangachary, Chandrasekhara Chary, her husband admitting the ill-treatment assured that he would look after her carefully, and on his promise they advised both of them to go for pilgrimage and again start marital life. Accordingly, both of them went to pilgrimage and came back to Hyderabad. In April, 2015, her husband told her that he would secure house and asked her to stay at her parents house at Anatapur for a few days. In June, 2015, when he told her that he secured house, she joined him. For some days, he has looked after her well, but, again

started demanding payment of additional amount and used to demand her to get the same from her parents. On occasions, whenever there were no provisions, she used to get amount from her parents and at times she had to undergo fasting. The petitioner used to demand her to get amounts from her parents, lest to die.

9. In the first week of October, when she was suffering with vomitings he did not even take her to the Doctor and having drunk used to come and harass her during nights. When she phoned her parents, they came and taken her to the hospital and she was found to be pregnant. When it was informed to her husband, he demanded even in the presence of parents to go for abortion and beat her when she refused and when all of them did not agree for abortion, he threatened her parents that in case she does not undergo abortion he would kill all of them. Her parents, having frightened, brought her back to Anantapur.

10. When they invited him to 'Seemantham' function, he did not accept to come over to Anantapur, but, on the other hand, demanded her to go for abortion and in case she does not undergo he would not allow her to come back to Hyderabad or Urarvakonda and that he would kill the baby child. Since then, her parents-in-law and brother-in-law, on occasions, used to visit their house and demand for payment of Rs.5,00,000/- threatening that they would spoil their marital life and when expressed their inability they used to abuse them.

11. She alleges that she too got frightened when her brother-in-law on 27.2.2016 at about 4.12 p.m. sent obscene messages through his mobile to her mobile by posting nude woman photographs inviting her to sexual favour and also sending sex related comments. Having felt insulted, she informed her parents on which her parents secured the presence of her parents-in-law, her husband and brother-in-law and they condemned the acts of her brother-in-law and instead of seeking excuse they all threatened that they would harass her further. When she admonished her brother-in-law, her husband took her into a room and without caring that she was pregnant attempted to throttle her.

12. On 16.6.2016 she gave birth to a male child, then her husband visited her house and started demanding to pay Rs.5,00,000/-. Even three months prior to her lodging compliant, her parents-in-law and her husband used to visit her uncle Ravi's house demanding her parents to pay Rs.10,00,000/- and also imposing threats.

13. On 26.3.2017, which had fallen on Sunday, at about 6.00 p.m. her husband and mother-in-law came to their house and picked up a quarrel and took her inside bed room, demanded to get Rs.10,00,000/- threatening that they would kill her; if their demand was not met, perform second marriage to her husband and when her mother-in-law instigated her husband to kill her, he pushed her on

to cot and picked the pillow to kill her by smothering. When she raised shouts, her mother rushed to the room from the ground floor, and got separated them. Her father followed her mother and admonished them, on which they ran out of the house. She referred to that by levelling all false allegations when they sent notice through a lawyer, she got a reply issued and having found that there was no change in the attitude of her husband and in-laws she lodged the compliant.

These have been the allegations levelled in the complaint.

14. The learned counsel for the petitioner mainly rests his argument on two points. First is, complaint was lodged only after notice was served in FCOP filed by her husband seeking relief for grant of divorce. Thus, as a counter-blast to resist their request for divorce and to harass the husband and in-laws the present complaint was filed levelling all false allegations.

15. Second submission relates to the allegation as to attempting to murder her and according to them the same is palpably false as it is unrealistic.

16. Incidental submission made by the learned counsel is that the mother-in-law and father-in-law, who are arraigned as A2 and A3, were granted anticipatory bail by the Principal Sessions Judge, Anantapur in Criminal M.P. No.420 of 2017 by his order dated 18.5.2017, however, refusing the said relief to the present petitioner

and his brother, who are arraigned as A1 and A4 respectively, though the allegations levelled by the *de facto* complainant are almost identical so far as the petitioner is concerned.

17. The learned Additional Public Prosecutor, in vehemence, would submit that there are concrete allegations in the complaint lodged by the *de facto* complainant in the direction of the acts of the petitioner and in-laws constituting both physical and mental cruelty. He even placed copies of the photographs sent by the *de facto* complainant uploaded through face book on his mobile to the mobile of the *de facto* complainant for perusal, and having just perused, they were returned to the Additional Public Prosecutor.

18. The learned Additional Public Prosecutor, would, therefore, urge to reject the request while submitting that the learned Sessions Judge rightly rejected the relief of grant of anticipatory bail to the petitioner and his brother.

19. So far as the first submission is concerned, there is absolutely no merit in it. The petitioner has not placed before this Court the notice got issued by him and the reply got issued by the *de facto* complainant prior to filing of FCO P No.47 of 2017 on the file of Family Court, Anantapuramu. The said F.C.O.P. was filed on 13.3.2017. It is no doubt true, the present First Information Report was lodged on 16.4.2017. To view the complaint as a counterblast and acceding to the submission made by the learned counsel would

lead to grave injustice for the reason it appears deliberately the petitioner suppressed to file the notice got issued by him and the reply got issued by the *de facto* complainant. Copy of reply notice is placed for perusal by the learned Additional Public Prosecutor. It was got issued by the *de facto* complainant on 2.5.2016, as reply to the notices got issued by the petitioner on 1.4.2016 and 16.4.2016. The relevant details sequence-wise that transpired prior to 2.5.2016 and the reply got issued by the *de facto* complainant have been specifically mentioned therein. They all constitute the allegations in the complaint lodged by her. This one circumstance is sufficient to belie the stand of the petitioner, basing on which the learned counsel for the petitioner made submission that as counterblast the present complaint was lodged. Such submission is made only to see that the petitioner wriggles himself out of the allegations that were slapped on his face through the present complaint.

20. Turning to the second submission, it is no doubt true that both the attempts to kill the *de facto* complainant alleged to have made in the bed room of the *de facto* complainant. The first attempt was made by her husband and second attempt was made by her husband along with mother-in-law of the *de facto* complainant. When these allegations do find place in the reply notice got issued by the *de facto* complainant referred to in the above, it cannot be said that it is designed deliberately for the purpose of involving the petitioner. Therefore, even that submission appears to be without any merit.

21. Now, turning to grant of anticipatory bail to mother-in-law and father-in-law, the allegations levelled against the mother-in-law are almost identical with the allegations levelled against the petitioner and, therefore, the petitioner deserves for grant of anticipatory bail is concerned, it is no doubt true so far as certain acts are concerned they do stand on the same footing as regards the allegations stated against him by the *de facto* complainant, but the allegations touching the cruelty meted out to the *de facto* complainant by way of torture through physical acts by the petitioner referred to in the above would point out the degree of severity so far as the petitioner is concerned. Therefore, the petitioner does not deserve anticipatory bail.

22. Concerning the offences punishable under Section 66(E) of Information Technology Act, 2000, though the learned counsel would submit that the said offence does not sustain so far as the petitioner is concerned, it is to be said that when brother of the petitioner resorted to such act of sending porn pictures referred to in the above and when the *de facto* complainant admonished her brother-in-law in their presence, instead of admonishing him they imposed threats on the *de facto* complainant and her parents, as could be seen from the allegations in the complaint are all sufficient to reject that submission. In fact, it is to be said that from the allegations in the complaint, the petitioner exhibited continuous obstinate conduct by inflicting physical and mental cruelty for additional dowry and thus, it

is not a deserving case for granting the relief of anticipatory bail as requested by the petitioner.

23. Hence, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 17.07.2017
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