

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.570 of 2015

ORDER :

Aggrieved by the order dated 04.03.2015 in CrI.MP.No.322 of 2015 in Crime No.33 of 2013 of Chinna Chowk Police Station, passed by the II Additional Judicial Magistrate of First Class, Kadapa, this revision is filed by the petitioners/ A2 and A3.

The revision petitioners are A2 and A3, no other than father and step mother of A1 and in-laws of the deceased. The 1<sup>st</sup> respondent is the de facto complainant and father of the deceased. Based on the report dated 02.02.2013 of the occurrence of even date, Crime No.33 of 2013 is registered by Station House Officer of Chinna Chowk Police Station, Kadapa District, for the offence punishable under Section 304-B I.P.C. The accused named are husband-Mulinti Sandeep Kumar Reddy, father-in-law-Nagireddy and mother-in-law-mentioned as second wife of Nagireddy, who are A1 to A3.

The contents of the report show that the marriage of the deceased with A1 was performed on 08.12.2012 in Devuni Kadapa temple premises of Lord Venkateswara and at the time of marriage, cash towards dowry and also valuables like gold and silver etc., presented through the mediators arranged.

After marriage while the couple were residing at Tadipatri (in the in-laws house), A1 to A3 were harassing by saying what the dowry given is a pittance, thereby demanding to bring more amount towards additional dowry and the deceased telephoned to the de facto complainant and also his wife and expressed her plight of meeting the additional dowry and in the first week of January, 2013, the deceased made a phone call informing that the couple shifted their family to Omshantinagar at Kadapa town at a rented house and the husband of the deceased was harassing to bring Rs.1,00,000/- towards additional dowry including the house hold articles like refrigerator, double cot bed etc., and on 20.01.2013, the deceased lonely came to her parents house and also informed the same by expressing her plight that her husband was not properly

talking for not meeting his demands and was troubling and harassing her and sent her to her parents to meet the demands. They expressed their inability to provide and consoled her to bear with and on 31.01.2013, the de facto complainant taken her daughter and left at the house of his son-in-law at Kadapa town. While so, on 01.02.2013, Friday, the de facto complainant received a phone call stating that the husband of the deceased beat her with hand black and blue and ill-treated her for not meeting the demands and came with empty hands. Further on 02.02.2013, evening at about 6.00 p.m. or so, A1 telephoned the son of the de facto complainant saying the deceased committed suicide and they rushed there and found the dead body hanging to ceiling fan with saree tied around the neck and tongue protract out and there are bleeding injuries near right ear and she breathed the lost. Having went there at about 9.30 p.m. or so on seeing the scene, the report is presented. It is from the said statement and also the statement of the de facto complainant in the course of investigation, in same lines and from the de facto complainant's wife (mother of the deceased) in the same line among other witnesses, the police final report so far as A2 and A3

concerned stating that they were residents of Tadipatri and the alleged occurrence taken place at Kadapa, while deceased and A1 were alone residing and there is no connectivity to them. It is there from not charging A2 and A3, the de facto complainant raised a protest and filed protest application and the Magistrate after recording sworn statements of the de facto complainant as PW.1 and his wife as PW.2 (parents of the deceased) taken cognizance for the offence punishable under Sections 304-B and 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act against A2 and A3 also. The sworn statements of the de facto complainant and his wife almost contained in the same lines of the F.I.R. and their statements before the investigating officer during investigation. From that, at the time of occurrence, there is nothing to show that A2 and A3 from Tadipatri harassed the deceased to any extent soon before the death, to attract the offence under Section 304-B I.P.C. against them. However, the very F.I.R. and the statements before the investigating officer clearly established that they also subjected the deceased by cruel treatment to meet the additional dowry, that attracts the offence under Section 498-A I.P.C. and

Sections 3 and 4 of the Dowry Prohibition Act. The taking of cognizance including for the offence under Section 304-B I.P.C. instead of only under Sections 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act by the learned Magistrate, thereby, unsustainable, though, mere non-recording of reasons in taking cognizance perse not a ground to quash the entire proceedings or to set aside the cognizance on the protest application.

Having regard to the above, the Criminal Revision Case is allowed in part by setting aside the taking of cognizance against A2 and A3 for the offence under Section 304-B I.P.C. However, retained the taking of cognizance for the offences under Section 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

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Dr. B. SIVA SANKARA RAO, J

Date:12-04-2017

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