

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.116 of 2017

ORDER:

This petition under Section 482 of Cr.P.C., is filed to quash the proceedings in C.C.No.305/2016 pending on the file of First Additional Judicial First Class Magistrate, Warangal for the offences punishable under Sections 498-A of IPC and Sections 3 & 4 of the Dowry Prohibition Act (for short "the D.P.Act").

2. Second respondent-defacto-complainant lodged a complaint with the police dated 06-02-2016, at about 21:15 hours making serious allegations against the petitioners and her husband that they are subjected her to harassment both physically and mentally on account of her failure to meet the illegal demand of additional dowry in cash and by providing a car. On the strength of the same, the police registered a case in Crime No.26/2016 and issued F.I.R., for the offences punishable under Section 498-A of IPC and Sections 3 & 4 of D.P Act. After due investigation, the police filed a charge sheet against the petitioners for the above offences and specifically making an allegation that the marriage of the second respondent with A1 was performed on 24-04-2015 at Royal Garden, Subedari, Hanamkonda and Manikonda, Hyderabad. At the time of marriage, on demand of A2 & A3, the petitioners 1 & 2 and A1, the parents of second respondent paid an amount of Rs.10,00,000/- in cash besides presentation of 25 thulas of gold ornaments before the elders. It is also further stated that after 20 days from the date of marriage, the first accused-A1 started harassing the second respondent both physically and mentally, abused her in filthy language and demanded a car from the

parents of the 2nd respondent-*defacto*-complainant. The petitioners 1 to 3 instigated A1 to harass the *defacto*-complainant-the second respondent both physically and mentally as her parents paid lesser amount as dowry and demanded a car or cash of Rs.5,00,000/- as additional dowry, while threatening to perform another marriage to A1. On account of such harassment, the elders held a Panchayat, but A1 promised to look after the second respondent well in future, but demanded to encash the deposit of Rs.10,00,000/- and thereafter, A1 to A6 started harassment to the second respondent physically and mentally to bring the amount deposited or to pay additional dowry and pulled a gold chain from her body and necked out from the house.

3. A bare look at the allegations made in the charge sheet, all the accused subjected the second respondent to cruelty for her failure to meet the illegal demand and pulled a gold chain from her body and necked out from the house and such an act would fall within the definition of cruelty under explanation to Section 498-A of IPC.

4. One of the contentions raised before this Court is that the charge sheet is bereft of the specific details as to date and place etc., but in the charge sheet at various places or more particularly in the first para of the charge sheet, dates were mentioned i.e., date of offence is prior to 06-02-2016 at Subedari, Hanmakonda and Manikonda and these details are sufficient and no further details are required since the second respondent was allegedly subjected to cruelty on different occasions. Therefore, on this ground, the proceedings against the petitioners for the offences

punishable under Section 498-A of IPC and Sections 3 & 4 of D.P. Act cannot be quashed.

5. The allegations regarding the payment of dowry of Rs.10,00,000/- and presentation of gold ornaments weighing at about 20 tulas to A1 to A3 on their demand would fall within the definition of Section 2 of D.P. Act. Receiving dowry is an offence under Section 3 of D.P Act. Demanding dowry is an offence under Section 4 of D.P Act. Therefore, the allegations made in the complaint, the charge sheet on its face value accepting in its entirety would constitute a *prima facie* offence punishable under Section 498-A of IPC and Sections 3 & 4 of D.P. Act.

6. The jurisdiction of this Court under Section 482 of Cr.P.C., is limited and such power can be exercised sparingly and in exceptional circumstances to give effect to the orders passed by the Court, to prevent abuse of process of Court and to meet the ends of justice. But when charge sheet is filed & charges are framed and when proceedings are questioned, this Court has only go through the allegations made in the charge sheet and documents filed along with it, only to *prima facie* be satisfied about the existence of the grounds to proceed further against the petitioners and for that limited purpose only, the Court can evaluate the material and allegations made in the charge sheet, cannot appreciate the evidence taking the role of a trial Court as held by the Apex Court in **STATE OF ORISSA AND ANOTHER vs. SAROJ KUMAR SAHOO¹**.

¹ (2005) 13 SCC 540

7. Thus in view of the law declared by the Apex Court, this Court is having limited jurisdiction and verify the allegations in the charge sheet, not the defence set up by the petitioners, decide whether there exist any ground to proceed further against the petitioners or not. If the Court finds existence of *prima facie* ground to proceed against the petitioners for any of the offences, this Court cannot exercise its inherent powers under Section 482 of Cr.P.C., and quash the proceedings. Even according to guidelines of **STATE OF HARYANA v. BHAJAN LAL**², if the allegations made in the charge sheet, F.I.R., or complaint on its face value accepting in its entirety, if constitute an offence *prima facie*, the Court cannot exercise in its jurisdiction to quash the proceedings. Keeping in view of the law declared by the Apex Court in the two judgments referred above, it is not a fit case to quash the proceedings at this stage.

8. One of the contentions raised before this Court is that the police falsely implicated these petitioners without conducting any proper investigation, obviously for different reasons and virtually no investigation was done by the police and that they are harassing the petitioners in different ways, but this Court cannot examine such question, while exercising powers under Section 482 of Cr.P.C., in view of the limited inherent jurisdiction conferred on this Court. If the petitioners are aggrieved by such acts of the police, the remedy is otherwise and not in a petition filed under Section 482 of Cr.P.C., therefore, it is not a ground at this stage.

² 1992 Supp.(1) SCC 335

However, the petitioners are permitted to raise all these pleas before the trial Court during trial, if advised, file an application under Section 205 of Cr.P.C., to dispense with their presence and on filing such application, the Magistrate is directed to pass appropriate orders in accordance with law.

9. With the above observation, the Criminal Petition is dismissed and consequently, the miscellaneous petitions, if any, pending in this Criminal Petition, shall stand dismissed.

Date: 05-01-2017
mrb

JUSTICE M. SATYANARAYANA MURTHY



