

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10018 of 2017

ORDER:

This Criminal Petition is filed, under Section 482 Cr.P.C., by the petitioners/A.1 to A.4, to quash the proceedings in C.C.No.42 of 2017 on the file of Judicial Magistrate of First Class, Ramannapet, Yadadri Bhongir District.

2. Petitioners are A.1 to A.4 and the second respondent is the *de facto* complainant, who lodged a complaint with the Station House Officer, Choutuppal Police Station, Rachakonda District, making serious allegations that she was subjected to cruelty by all these petitioners for demanding dowry, which attracts the offence punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

3. On the strength of complaint lodged by the second respondent under Section 154 Cr.P.C., police took up investigation and examined as many as four witnesses and after completion of investigation, the Investigating Agency concluded that there is *prima facie* material against these petitioners that they have committed the above referred offences.

4. The present petition is filed to quash the proceedings in the aforesaid case on the ground that the petitioners did commit no offence and they never demanded dowry at the time of marriage as alleged by the 2nd respondent in her complaint; that the petitioners also never demanded additional dowry subsequent to the marriage also. It is further stated that even the allegations made in the

charge sheet are accepted, it would not constitute the offence punishable under Section 498-A IPC or Sections 3 and 4 of the Dowry Prohibition Act, but, the charge sheet filed by the police was without proper investigation of the case and, that only to take vengeance against these petitioners, the 2nd respondent filed the present complaint and prayed to quash the proceedings.

5. The petitioners, during hearing, at the time of admission, while reiterating the grounds urged in the petition, contended that petitioner No.2 is suffering from chronic illness and other petitioners also suffering from various health problems and requested this Court to quash the proceedings against these petitioners in the aforesaid Calendar Case.

6. Learned Additional Public Prosecutor for the State of Telangana opposed the petition on the ground that since the investigation done by the Investigating Agency, *prima facie*, discloses a case to proceed against these petitioners for the offences stated supra, this Court cannot exercise inherent power under Section 482 Cr.P.C., to quash the proceedings. When a charge sheet discloses commission of an offence, *prima facie*, the Court cannot quash the proceedings.

7. The power of this Court under Section 482 Cr.P.C., is inherent and such power has to be exercised sparingly in exceptional circumstances, more particularly in rarest of rare cases. While exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not on a reasonable apprehension, on which accusation would not be suspended. If

the allegations made in the charge sheet disclose commission of *prima facie* offence, it cannot be under any penal provisions of any Act, the Court cannot quash such proceedings though it is inherent and such power is to be exercised only to give effect to any order under Code or to prevent the abuse of Court or otherwise to secure the ends of justice. In ***State of Haryana v. Bhajanlal***¹, the Apex Court laid down certain guidelines enabling the Court to exercise inherent power under Section 482 Cr.P.C., which read as under:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

¹ 1992 Supp.(1) SCC 335

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. In ***R.P. Kapur v. State of Punjab***², this Court laid down the following principles:

(i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;

(ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;

(iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and (iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge.

9. In ***(Mrs.) Dhanalakshmi v. R. Prasanna Kumar and others***³, the Supreme Court dealt with the scope of Section 482 of Cr.P.C and it reads as under:

"Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of Court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate it is open to the High Court to quash the same in exercise of the inherent powers under Section 482. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not. The complaint has to be read as a whole. If it appears on a consideration of the allegations, in the light of the statement on oath of the complainant that ingredients of the offence/offences are disclosed, and there is no material to show that the complaint is mala fide, frivolous or vexatious. in that event there would be no justification for interference by the High Court.

² AIR 1960 SC 866

³ AIR 1990 SC 494

The law laid down by the Apex Court is clear that such power has to be exercised only in exceptional rarest of rare cases and this Court cannot scuttle the trial of the case at the threshold.

10. Coming to the facts of the present case, the allegations made in the charge sheet discloses that on 27.02.2016, the marriage of the 2nd respondent with A.1 was performed and at the time of marriage, as per demand of the accused, the parents of the 2nd respondent gifted three tulas of gold, cash of Rs.3,00,000/- apart from household articles. The allegations in the charge sheet *prima facie* would constitute the offence punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. Similarly additional dowry of Rs.5,00,000/- and subjected her to cruelty for her failure to meet the illegal demand, would attract the offence punishable under Section 3 and 4 of the Dowry Prohibition Act and so also punishable under Section 498-A IPC. Therefore, the allegations in the charge sheet are suffice to conclude *prima facie* that the petitioners have committed the offence and it would not fall within any of the exceptions and such power cannot be exercised to quash the proceedings at this stage.

11. The ground urged by learned counsel for the petitioners that petitioner No.2 is suffering from chronic illness is not a ground to quash the proceedings and at best if she is unable to attend or appear before the courts on the dates of adjournment, she can move an appropriate application either under Section 205 Cr.P.C., or under Rule 37 of the Criminal Rules of Practice and A.P. Circular Orders and on filing of such application, after receipt of

notice to the respondent, the learned Magistrate is directed to pass appropriate orders on the said application.

12. In view of my foregoing discussion, I find no ground to quash the proceedings at this stage and therefore, the petition is liable to be dismissed.

13. Accordingly, the Criminal Petition is dismissed with the afore-stated liberty. Miscellaneous petitions, if any, pending in this petition shall stand closed.

NOVEMBER 01, 2017
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M. SATYANARAYANA MURTHY, J



THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 01.11.2017