

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10907 OF 2017

ORDER:

This criminal petition is filed to quash the proceedings in Crime No.242 of 2017, Women Police Station, Saroornagar, for the offences punishable under Sections 498-A, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act.

The second respondent lodged a report with the police running into seven pages consisting of 32 paragraphs, against five persons, including her husband, in laws and brothers-in-law. The present petitioners/A-4 & A-5 are the brothers-in-law of the second respondent residing at Bangalore and Hyderabad respectively, in connection with their employment.

The main contention raised by the second respondent is that, all the accused, including the petitioners herein subjected her to cruelty in connection with dowry.

The main ground urged before this Court by the learned counsel for the petitioners is that, there is no whisper against the petitioners herein about harassing the second respondent in the entire complaint consisting of 32 paragraphs. In the absence of any allegations, much less, specific allegations, the Investigating Agency cannot proceed against these petitioners, who are residing at different places away to Vijayawada i.e. one at Bangalore and the other at Hyderabad.

Learned counsel for the petitioners Sri Pottigari Sridhar Reddy reiterated the same contentions raised in the grounds of petition, whereas, learned counsel for the second respondent

Sri Omar A Pasha contended that, the Investigating Agency recorded the statement of the second respondent yesterday i.e. on 22.11.2017 in the police station and the learned counsel admitted that failure to make an allegation is only clerical mistake, consequently, the proceedings cannot be quashed.

On a bare look on the allegations made in the complaint, there is no whisper about subjecting the second respondent to cruelty, either in connection with dowry or otherwise by these petitioners to constitute offences punishable under Sections 498-A, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act. In the absence of any allegations, mere arraying the petitioners herein as accused is not sufficient to investigate into the crime. Apart from that, the petitioners are staying at a long distance to the scene of offence. Therefore, based on the report lodged by the second respondent, the proceedings against the petitioners shall not be continued further.

The power of this Court under Section 482 Cr.P.C is limited and such power has to be used sparingly in rarest of the rare cases to give effect to the orders passed under the Code to prevent abuse of process of the Court and to secure ends of justice.

In **State of Haryana v. Bhajan Lal**¹ this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

¹ 1992 Supp. (1) SCC 335

(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.

(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.

Guideline Nos.2 & 3 clearly stipulates that, when the allegations made in the F.I.R, if taken on its face value would not constitute an offence, the Court can quash the proceedings, since it is an abuse of process of the Court. Here also, in the allegations made in the report lodged with the police by the second respondent, there is absolutely no whisper, muchless, specific allegations against these petitioners that they are staying away from the place of offence. In these circumstances, this Court can exercise its inherent jurisdiction, as the allegations made in the complaint did not constitute offences punishable under Sections 498-A, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act. Hence, the proceedings against these petitioners for the offences punishable under Sections 498-A, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act in Crime No.242 of 2017, Women Police Station, Saroornagar are hereby quashed, while permitting the Investigating Agency to complete the investigation against the other accused.

In the result, the criminal petition is allowed.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.11.2017
SP