

The Hon'ble Sri Justice M.Satyanarayana Murthy

Criminal Petition No.24669 of 2017

Order:

This Petition is filed under Section 482 of the Criminal Procedure Code, 1973 (Cr.P.C.), to quash the proceedings against the petitioners/accused Nos.1 and 2 in S.C.No.340 of 2013, pending on the file of the Additional Sessions Judge, Nuzvid, registered for the offence punishable under Section 307 r/w 34 of the Indian Penal Code, 1860 (IPC).

2. Heard learned Counsel for the petitioners and learned Public Prosecutor for respondent No.1- State.

3. The petitioners are accused Nos.1 and 2 in the Sessions Case. Respondent No.2 lodged a report with the Police on 25-01-2014 at about 21.00 hours alleging that her marriage was performed on 05.11.2000 with Pamarthi Soban Babu of China Agiripalli; that at the time of her marriage, her parents paid an amount of Rs.2 lakhs and gifted 10 sovereigns of gold besides Ac.1.20 cents of fish tank as dowry and that they were blessed with two female children.

Thereafter, her husband and in-laws started harassing her on the ground that she did not give birth to a male child. Her husband married another lady and her parents-in-law suppressed the same. Subsequently, she gave birth to a male child. But, her parents-in-law, with a bad intention to put an end to her life and take away her property, harassed her. Hence, she went to her maternal home and filed a complaint against her husband and parents-in-law in the year 2007, which was registered for the offence punishable under Section 498-A IPC. While the said case was pending in Bandar Court, her parents-in-law, having apprehended punishment, promised before the Judge that they will look after her welfare and took her along with them to their house at Chinna Agiripalli Village. Since then, respondent No.2 has been residing in a room in their house with her three children but her husband did not join her. However, her parents-in-law have been pressurising her to withdraw the case pending in the Court. On 17-01-2014, at about 11.30 p.m., while she was present in the house, her father-in-law behaved indecently with her. Her mother-in-law, second sister-in-law and her husband came to her room and demanded her to withdraw the case or else to leave the

house. While saying so, they caught hold of her hair, beat her with a stick on her abdomen severely and attempted to kill her by pressing her throat. On hearing those cries, her neighbours, one Mr.P.Mohan Rao, who is the brother of her father-in-law, and one Mr.M.Pavan came there and rescued her. Thereupon, her parents-in-law, sister-in-law and her husband absconded from the village. Next day, her another sister-in-law *viz.*, Arepalli Rama Gopala Kumari along with her husband came to the house of her parents-in-laws and started residing there. While the matter stood thus, on 24-01-2014, at about 10 p.m., the said two persons, doused her with kerosene to set fire with an intention to kill her. When she raised hue and cry, Mr.M.Pavan and Mr.P.Mohan Rao rushed there and rescued her. Thus, petitioner Nos.1 and 2 allegedly committed the offence punishable under Section 307 r/w 34 IPC.

4. The Police registered the above complaint as FIR.No.13 of 2014, took up the investigation, examined as many as 18 witnesses, recorded their statements and after collection of the entire evidence and completion of investigation, filed charge sheet before the Magistrate, who,

in turn, having found that the offence is triable by a Court of Sessions exclusively, committed the case, after following the due procedure under Section 209 of Cr.P.C., to the Sessions division, which in turn made over to Additional Sessions Court, Nuzvid, which is pending trial.

5. The main contest by the learned Counsel for the petitioners before this Court is that when the petitioners, allegedly, committed the offence punishable under Section 498-A IPC during the pendency of the Case, respondent No.2 ought to have informed the same to the Police. Apart from that, the Case ended in acquittal of the petitioners with an observation that respondent No.2 left her matrimonial house and is staying at the house of her parents at Chinnapuram. The learned Counsel submitted that the allegations made in the complaint are false; the petitioners were falsely implicated therein with an ulterior motive; and ultimately, prayed to quash the proceedings.

6. On the other hand, the learned Public Prosecutor appearing for respondent No.1- State would draw the attention of this Court to the statements recorded by the

Police during the investigation under Section 161 Cr.P.C., which discloses that the petitioners herein made a sincere attempt to cause the death of respondent No.2, and submitted that as there is a *prima facie* material against the petitioners, the proceedings cannot be quashed at this stage and prayed for dismissal of the Petition.

7. The present Petition is filed under Section 482 Cr.P.C., Under Section 482 Cr.P.C., power is conferred on this Court to give effect to the orders passed by this Court or to prevent abuse of the process of any Court or otherwise, to secure the ends of justice.

8. The Apex Court in **State of Haryana v. Bhajan Lal**¹, summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers under Section 482 Cr.P.C., to quash a criminal complaint:

(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.

¹ 1992 Supp. (1) SCC 335

(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.

9. While deciding an Application under Section 482 of Cr.P.C., the Court has to find out whether the material produced before it and the allegations made in the charge sheet, *prima facie* constitute an offence and this Court can only verify the evidence but cannot appreciate the same while deciding the application under Section 482 Cr.P.C.

10. The allegations made by respondent No.2 in the charge sheet would clearly disclose that on 21-04-2014, her sister-in-law and her husband poured kerosene on her and attempted to kill her. On her raising cries, the neighbours came and rescued her. The improbability pointed out by the Counsel for the petitioners is that when CC.No.234 of 2008 was pending, the question of her staying at her matrimonial house does not arise. Undisputedly, while CC.No.234 of 2008 was pending, the petitioners have taken respondent No.2 to their house with an apprehension of punishment in the said case. Though respondent No.2 was allowed to stay in a room along with her three children, her husband did not join her as he had allegedly married another lady. While so,

the parents-in-laws of respondent No.2 and the petitioners started harassing her for withdrawal of CC.No.234 of 2008 and on 17-01-2014, when they attempted to cause injuries to her, on intervention of the neighbours, they fled away from the scene of offence. However, in the same process of harassment on 24-01-2014 during night time, these two petitioners poured kerosene on respondent No.2 and attempted to kill her. This incident would constitute an offence punishable under Section 307 r/w 34 IPC *prima facie*. The statements recorded by the Police during investigation under Section 161 Cr.P.C., disclose that the petitioners made a sincere attempt to kill respondent No.2 by pouring kerosene and setting fire to her body. If they really had no such intention, the question of pouring kerosene does not arise. The statement of LW.1- Pamarthi Damayanthi and LW.2- Rajulapati Abhimanyu is consistent that the petitioners poured kerosene on respondent No.2 with an intention to kill her and LW.3- Pamarthi Mohana Rao and LW.4- Madu Pawan Kumar, who witnessed the incident and, allegedly, rescued respondent No.2 and neighbours of the petitioners and residents of China Agiripalli, is also consistent that these two petitioners poured kerosene and

made an attempt to kill respondent No.2. The statements of other witnesses also corroborate the testimony of LWs.1 to 4. The medical evidence also lends support to the case of the prosecution. Therefore, on an over all consideration of the entire material, the allegations made in the complaint and the evidence collected during investigation *prima facie* pointing out the guilt of the petitioners for the offence punishable under Section 307 r/w 34 IPC. Having regard to the allegations in the charge sheet, which constitute a *prima facie* offence, and having regard to the guidelines laid down by the Apex Court in **State of Haryana** (1 supra), this Court cannot exercise its inherent jurisdiction to quash the proceedings. The improbabilities pointed out by the learned Counsel for the petitioners during hearing will have no relevance at this stage since the jurisdiction of this Court is limited.

11. In view of my foregoing discussion, I find absolutely no merit in this Criminal Petition and consequently, the same deserves to be dismissed.

12. In the result, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, pending if any, stand closed.

(M. Satyanarayana Murthy, J)

Dt: 29th December, 2017
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