

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 228 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in crime No. 109 of 2017 of Women Police Station, Rajahmundry, East Godavari District, registered for the offences punishable under Sections 498-A and 506 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. One Alekhya Manash Devi G – Respondent No. 2 lodged a report on 09-12-2017 with the police alleging that accused No. 1, who is her husband, along with the petitioners, who are accused Nos. 2 and 3, subjected her to cruelty for her failure to meet their illegal demand for payment of additional dowry and also committed criminal breach of trust by misusing the gold and cash entrusted to them while she was leaving to UAE along with accused No. 1 and that the photographs taken in hotel room are sufficient to conclude that accused No. 1 had illicit contact with petitioner No. 2-accused No. 3 for payment of additional dowry of Rs.20,00,000/-. On the strength of the report, the above crime was registered and issued F.I.R.

3. The present petition is filed by the petitioners, who are accused Nos. 2 and 3, to quash the above proceedings. However, at the hearing, learned counsel for the petitioners has not pressed the claim of petitioner No. 1-accused No. 2 while requesting this Court to quash the proceedings against petitioner No. 2-accused No. 3 on the sole ground that accused No. 3 is not the relative of husband of respondent No. 2 and that the allegations made in the report did not disclose the specific role played by her to attract the above offences. In support of his contention that when accused No. 3 is not related to husband of

respondent No. 2, the proceedings against her for the offences punishable under Sections 498-A and 506 of IPC and Sections 3 and 4 of Dowry Prohibition Act are liable to be quashed, learned counsel for the petitioners has placed reliance on ***U.Suvetha Vs. State by Inspector of Police and another*¹**; ***Geeta Mehrotra and another Vs. State of U.P. and another*²**; and ***Rajeti Laxmi Vs. State of Andhra Pradesh*³**.

4. Whereas learned counsel for respondent No. 2 has contended that accused No. 3 is related to husband of respondent No. 2 and that the allegations made in the report are sufficient to conclude that accused No. 1 had relationship with accused No. 3 and thereby accused No. 3 is also liable to be prosecuted.

5. Learned Public Prosecutor (A.P.) has contended that husband of accused No. 3 is foster son of accused No. 2 and husband of respondent No. 2 is adopted son of accused No. 2 and thereby there is subsisting relationship between accused No. 3 and accused No. 1 and therefore the proceedings against accused No. 3 cannot be quashed.

6. As seen from the allegations made in the report, accused No. 2 was unmarried and she was the kept mistress of late Rama Murthy. As they were not blessed with children, accused No. 2 and Rama Murthy fostered one Someswara Rao and performed his marriage with accused No. 3. At the same time, accused No. 2 and Rama Murthy also adopted accused No. 1, who is sister's son of accused No. 2, and performed his marriage with respondent No. 2. Thus, it is no doubt true that accused No. 2 had not given birth to any child. Mere fostering of Someswara Rao, husband of accused No. 3, would not create any relationship between accused No. 1 and the said Someswara Rao. In the absence of any

¹ SLP (CrI.) No. 7163/2008

² SLP (CrI.) No. 10547/2010

³ I (2007) DMC 797

direct relationship between husband of respondent No. 2 and accused No. 3, proceedings against accused No. 3 for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act cannot be allowed to continue. Section 498-A of IPC deals with punishment for harassment by husband or relative of husband of a woman subjecting her to cruelty. Therefore, it is necessary to establish that there is relationship between accused No. 1 and accused No. 3. In the absence of direct relationship, proceeding against accused No. 3 is illegal. The Apex Court in **U.Suvetha** (1st *supra*) and **Geeta Mehrotra** (2nd *supra*) made it clear that proceedings for the offence punishable under Section 498-A of IPC are only against husband and his relatives and not against third party who is not related to husband.

7. The other offence allegedly committed by accused No. 3 along with other accused is punishable under Section 506 of IPC but the report is bereft of any such allegations to attract the offence punishable under Section 506 of IPC *i.e.* punishment for criminal intimidation as defined under Section 503 of IPC.

8. In view of my foregoing discussion, I find that there is no relationship between accused No. 3 and accused No. 1 and as such, the proceedings against accused No. 3 are liable to be quashed.

9. The criminal petition is partly allowed quashing the proceedings in crime No. 109 of 2017 of Women Police Station, Rajahmundry, East Godavari District, against accused No. 3 while dismissed the claim of accused No. 2 as not pressed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 15-06-2018.

JSK

M.SATYANARAYANA MURTHY, J.